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*Annual Report of the  
Pennsylvania Bar Association*  
Pennsylvania Bar Association









# REPORT

OF THE

## Sixteenth Annual Meeting

OF THE

## Pennsylvania Bar Association

HELD AT

CAPE MAY, N. J.

June 28, 29, 30, 1910

STANFORD 1910

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GUSTAV A. ENDLICH

AVERT GROJVIS

## Sixty Annual Meeting

OF 1917

## Pennsylvania Bar Association

NEW JERSEY, TUESDAY, DECEMBER 28, 1917

The Sixty Annual Meeting of the Pennsylvania Bar Association was called to order at 1:30 o'clock P. M. President GEORGE A. BLOOM presided.

### FIRST DAY, AFTERNOON SESSION

THE PRESIDENT, The Sixty Annual Meeting of the Pennsylvania Bar Association.

#### PRESIDENT'S ADDRESS

*The Pennsylvania Bar Association*

It is a custom of the Association to have a President who is therefore not bound to be a member of the Association. The President of the Association with a reminder of the fact that it has no one to blame for it but that it has not written into its ordinances that its members shall annually deliver an address with reference to statutory changes made during the year and to the decisions suggested by judicial decisions? It is not so. What is to do when there has been no new legislation nor any intimation by the Courts for such. Perhaps in these circumstances his duty could be acceptably discharged by simply directing attention to the fact and inviting your silent yet fervent response. There has been during the past twelve-month session of the Legislature and consequently no change in



J. A. F. B. H.

1887

# Sixteenth Annual Meeting

OF THE

## Pennsylvania Bar Association

CAPE MAY, N. J., TUESDAY, *June 28*, 1910.

The Sixteenth Annual Meeting of the Pennsylvania Bar Association was called to order at the Hotel Cape May, at 2 o'clock p. m., President GUSTAV A. ENDLICH in the Chair.

### FIRST DAY, AFTERNOON SESSION

THE PRESIDENT: The Sixteenth Annual Meeting of the Pennsylvania Bar Association will now come to order.

### PRESIDENT'S ADDRESS

*Gentlemen of the Pennsylvania Bar Association:*

It has become a custom, hallowed by almost unbroken observance and therefore not lightly to be departed from, to preface this number of the program with a reminder to the Association that it has no one to blame for it but itself. For has it not written into its ordinances that its presiding officer shall annually deliver to it an address with particular reference to statutory changes made during the past year and needed ones suggested by judicial decisions? True, it is not said what he is to do when there has been neither new legislation nor any intimation by the Courts of a desire for such. Perhaps in these circumstances his duty would be acceptably discharged by simply directing attention to the fact and inviting your silent yet fervent thanksgiving. There has been during the past twelve-month no session of the Legislature and consequently no change in



the statute law. Nor on the part of the judiciary has there been any clamor for additional legislation. There rarely is; and there is wisdom in such reticence. About twenty years ago, a Judge eminent in our State took occasion to point out, in characteristically forceful language, the regrettable absence and the dire need of an enactment of a certain purport. It so happened that just such an enactment had been for years and was even then reposing upon the statute book patiently waiting for a job to come its way. If in the whole course of its life, now nearly thirty years, a case has arisen for its application, it has been successfully withheld from public notice. But though both of the sources of inspiration contemplated by the by-law adverted to should utterly fail at this time, the fact remains that the Constitution of the State has, since the last meeting of the Association, undergone certain alterations, and that some reference to these, if not within the letter of the law, is, upon a familiar principle of interpretation, fairly within its reason and equity, and hence imperatively called for.

The Amendments of the Constitution submitted to the people and carried by a minority of them at the general election of last November were not primarily designed to prolong certain official lives approaching extinction. That was merely an incident to putting the amendments into operation, though, it must be confessed, it had much to do with securing votes in their favor. Their real object was to do away with the so-called spring election and to change the system of annual into one of biennial elections, the county and municipal elections and those for the local judiciary being placed in the odd-numbered, the general elections in the even-numbered years. But neither in the reasons underlying the proposal of this change nor in the circumstances of its ratification is there anything calculated to arouse in a Pennsylvanian feelings of pride or satisfaction. It is true that the establishment of the primary election system, the requirement of personal registration in cities, the annual recur-

rence of a municipal and a general election, the elaborate machinery employed in each, and the inconvenience caused by the form, make-up and size of the ballots had led to an expenditure of time and money upon the business of preparing for elections, of voting and of counting the returns, which had grown to a formidable total. But it is a fact not to be disguised that all this would have cut no figure in bringing about these amendments if there were not back of it an increasing indisposition on the part of the people to go to any trouble in the performance of their most responsible and not directly remunerative duties of citizenship. For years past this tendency has been asserting itself in an inordinate demand for more numerous election precincts. Their multiplication has been countenanced in the hope of thereby minimizing the irksomeness to the voters of the exercise of their franchise and of encouraging a more general participation in elections. But "on the pasture of hope graze many fools," says the Russian proverb. The upshot has been that the cost of elections has mounted up prodigiously, and the size of the vote polled, as compared with the growth of the population, has steadily gone down. Latterly, save upon exceptional occasions of local or national concern, no election seems able to bring out even a decent proportion of the persons who ought to vote, and unhappily the stay-at-home element is largely made up of those presumptively best qualified to vote intelligently and most likely, if voting at all, to vote honestly. The remedy now to be applied is to reduce the number of elections. That is to say, a man who has shown himself habitually indifferent to certain duties is relieved of part of them in the expectation that he will thereby be shamed into a performance of the rest; a lazy school-boy systematically playing truant is given a dispensation from attendance upon certain days on the assumption that he will feel disposed to answer to the roll-call on the remaining ones. On the score of practical wisdom reckoning with human nature, both the theory and the remedy

based upon it would appear open to much criticism, at least in the absence of concurrent provisions guaranteeing by some means of compulsion the observance of the retained duties. It may be conceded that the enforcement of civic duties in that way cannot but involve a confession of unworthiness, especially humiliating in a republic. But, having gone to the length, as we virtually have in the adoption of these amendments, of avowing the existence of an unwillingness on the part of our people to perform the whole of what has heretofore been regarded as a duty of citizenship, we might as well make up our minds to the next step, manifestly quite as needful, to insure the performance; under penalties, of what is left. There is an alternative; but it is worse. To the great Roman commonwealth there came a day when, though its glory and power and prosperity seemed to have reached the zenith, the civic virtue of its people was on the wane,—when a counterfeit of the old-time patriotism paraded itself with spectacular ostentation, but its substance had been lost in frivolity and self-seeking,—and when men of business, intellect and culture eschewed politics and the affairs of State, preferring to leave them in the hands of those who, for better or for worse, had made them their business and profession and stood ready and anxious to relieve their fellow-citizens of the burden of thinking and acting for themselves. Then it was that the thought took form of paying men for the time they gave to the exercise of certain of their privileges as citizens. We have not yet come to that point. But the possibility of reaching it can hardly be treated as something even now beyond sight. At the last or next to the last session of the Legislature, among the bills introduced was one for the payment of parents out of the public treasury for sending their children to school. The essence of the two propositions is the same.

It is, however, not pleasing to dwell upon this aspect of the recent Constitutional Amendments. Perhaps it is not even profitable. Let us assume that one election a year is

enough to keep men alive to the fact that they are citizens of a republic and to afford them the requisite opportunity of exercise in the performance of their duties as such. Let us assume also that the cost of one election a year is quite as much as the average yearly results of two have been worth to the public.

With the exception of one, all the amendments proposed were limited to doing away with the elections regarded as superfluous and to conforming existing conditions to the new order of things. That one, besides directing the selection of election officers biennially, undertook to give the Legislature power to provide for their appointment, instead of election, under laws to be enacted by it applicable at its discretion to cities only. As it turned out that was the one amendment that failed to carry, admittedly because the change indicated would have made it possible for the Legislature to take from the people the power of naming the election boards. The motive that dictated the unwelcome provision was pretty generally understood to be an upright one. It was the hope of securing, especially in the great cities, by some judicious method of appointment, a higher grade of men for service on these boards than can be looked for so long as positions upon them have to be sought and obtained by election. Nevertheless the chance of a misuse of the power to be given to the Legislature condemned the amendment to failure,—a highly instructive commentary, on the one hand, upon the healthy instinct of the people to keep within its grasp the direct control of what is left of elections, and on the other hand, upon the estimation in which it holds the bulk of those whom it habitually sends to the Legislature to enact the laws it consents in advance to be governed by. Beyond this, however, the rejection of the Seventh Amendment leaves the constitutional scheme in a somewhat mutilated condition. It was designed to change Section 14 of Article VIII of the Constitution. Its rejection leaves that section intact. In it we have a pro-

vision for the annual choice by the people of election boards in all the election districts, which, according to Section 3 of the same Article, is to be made at the spring election. But the spring election is abolished by the Sixth Amendment transferring all elections heretofore held at that time to the fall of odd-numbered years. No serious complication is to be apprehended from this mere transfer; nor perhaps from the incongruity between biennial local elections and the requirement of an annual election of election officers, a purely local matter. But then comes the schedule providing that all election officers elected at the spring election of 1910 (the last to be held) shall continue in office until the first Monday of December, 1911, overlapping at least one period at which in obedience to Article VIII, Section 14, others will have to be elected. Thus, thanks to the defeat of the Seventh Amendment, it looks as if we should be under a necessity of piling up election officers at a rate which may be expected speedily to cause a supply very much in excess of the demand—not to mention the embarrassment capable of resulting from the existence of rival election boards. Just what remedy may be found for this perplexing state of things can, of course, be a matter of conjecture only. That any may be looked for from the Legislature seems exceedingly doubtful. The requirement of annual selection of election boards either remains in the Constitution or has been converted into one of biennial selection. In either event it is determined by the Constitution as it originally stood or as it stands since its amendment, and is therefore beyond the Legislature's power of regulation. In other words the question arising is not a legislative but a judicial one—a question of implied intent to be decided broadly as in all cases where various parts of a constitution have to be harmonized so as to rationally effectuate its essential and unmistakable purposes.

The difficulty just adverted to is one that springs from a contingency which could hardly have been foreseen or provided against,—the defeat of one of a series of amend-

ments all converging to a single point, and therefore forming an entire whole and mutually interdependent. Against mere oversights the mode prescribed by the Constitution itself for its amendment might be supposed to afford ample safeguards. Any amendment, proposed in either of the branches of the Legislature, must in the first instance be assented to by both. If so agreed to it is published throughout the State for three months prior to the next general election. It then comes before the next succeeding Legislature. If that body also agrees to it, it is republished and finally voted on—every proposed amendment being separately submitted to and passed upon by the voters, a majority of those voting thereon determining its adoption or rejection. It will be observed that one of the incidental effects of the change to biennial elections, the general elections falling in the even years, will be that the period of incubation of a Constitutional Amendment is prolonged by one year. But even under the shorter period there is apparently sufficient opportunity for detecting any flaw in a projected scheme of alterations, more especially where it is supplemented by a schedule undertaking in terms to provide against any inconvenience arising from the same and for carrying them into complete operation. Nevertheless, since the adoption of the amendments of 1909 and the schedule with its brave profession, it has been discovered that in both certain oversights have occurred. The Legislature will have it in its power by prompt action to settle what is to become of the legal holiday falling on the third Tuesday of February, no longer an election day, and of bills and notes then maturing. There is no obstacle in the way of speedily readjusting the registration and primary election system by amendment of existing laws. Neither need our minds be vexed by the idea that the adoption of the amendments at last November's election might control the terms of all the officers then elected. The answer to that misconception is found in the opinion of the Attorney-General concerning the term for which county officers elected

last November were to be commissioned. He holds in substance that that election was under the original provisions of the Constitution and that the terms of the officers then elected are measured by those provisions, except in so far as the amendments specifically direct otherwise. At the same time he concedes that in the case of county officers who were elected in November, 1909, for terms of three years, but whose successors can, under the Sixth Amendment, be elected only in odd-numbered years, the result may be to entitle them to hold over until after the election of 1913,—apparently a *casus omissus*. But there are other matters not so readily dealt with.

The provision of the schedule lengthening the terms of previously elected officers which would expire in odd-numbered years, fails to apply it to the case of an incumbent appointed before the adoption of the amendments to fill a vacancy in such an office under a commission running to the time when, under the Constitution as it then stood, his successor elected at the next appropriate election should qualify. The question then arises whether the term of an officer appointed to fill a vacancy until the first Monday of January, 1911, is extended for a year, where, under the amendments, that office can be filled only at the election occurring in the fall of 1911. That question was mooted with reference to a Judge who had been so appointed. The decision of the Attorney-General is that there can be no judicial election in 1910, and that therefore the appointed incumbent is entitled to an extension of his commission for another year.

The death of the State Treasurer-elect between the last general election and the beginning of the term for which he was elected, May 2, 1910, precipitated questions solved only in part by the Governor's appointment of his successor and the Supreme Court's recognition of him. Article IV, Section 21, of the Constitution made the term of the Treasurer two years and forbade him to hold office for two consec-

utive terms. The Act of 1874 added to the designation of his term the words "or until his successor shall be duly qualified." This addition was regarded as incompatible with the constitutional provision; so that the expiration of the two-year term of the then Treasurer, on May 2, 1910, caused a vacancy to be filled by the Governor. The Second Amendment enlarges the term of the Treasurer to four years, but directs that the Treasurer elected in 1909 shall serve for three years and that his successor shall be elected in 1912. By the First Amendment vacancies in an office are to be filled by the Governor's appointment to the date for the commencement of the same following "the next election day appropriate to such office," occurring two months or more after the happening of the vacancy. The commission issued to the newly appointed Treasurer does not assume to decide when his successor is to be elected, but runs to "the first Monday of May following the next election appropriate for filling such office"—which must be either the general election of this year or that of 1912. Which of these it shall be will depend upon whether the provision of the Second Amendment is to be taken as declaring that there shall be no election for Treasurer before 1912—or whether its reference to the election of a Treasurer in that year to succeed the one elected in 1909 is to be understood only as a direction ancillary to the accomplishment of the purpose of changing the term of the Treasurer from two to four years and adjusting the occurrence and recurrence of his election to the scheme of general elections in even-numbered years. If that is all it was meant to do, it is obvious that an election of a Treasurer in 1910 for a four-year term will answer as well as its postponement to 1912, while according with the general constitutional policy of filling elective offices by election at the earliest convenient time.

Doubtless as time goes on other problems respecting the effect of these amendments will spring up, each affording fresh demonstration of the oft-proven inadequacy of



human ingenuity to foresee and provide for every contingency even within a seemingly limited field of possibilities. An instructive example of how to go about the formulation of a body of law designed for enduring use was afforded in the preparation of the Civil Code of Germany now in force. Building upon a modified and modernized Roman law, the work of preparing a draft of it was begun in 1874 by a commission constituted for the purpose. Completed in 1887, this draft was for three years published and subjected to the unstinted criticism of experts and others. In 1890 another commission was named to revise it in the light of all that had appeared in the way of comment upon it in the press, in books and in pamphlets. The second draft was completed in 1895 and brought before the Federal Council and Parliament, at the hands of both of which it underwent further scrutiny and modification, until in the latter part of 1896, twenty-two years from the commencement of the work, the final product was enacted as a law to go into effect on January 1, 1900, accompanied with an introductory statute providing for the transition from the old to the new system. As might be expected in view of the foundation upon which it rested, the method of its preparation and the care-thoroughness of its authors, it is a work of wonderful precision and minuteness of detail and admirable in its arrangement, not, as Dr. Schuster points out, so much from the standpoint of strict logical analysis as from that of practical convenience and the avoidance of deviation from accustomed distinctions and habits of legal thought. And let it be remarked here, with due diffidence, that the element of logic in matters of law is one whose importance is sometimes apt to be overrated. Lord Halsbury has never been ranked as one of England's great Chancellors. But he earned for himself some title to greatness by his declaration, as frank as it was courageous, in *Quinn vs. Leathem*, (1901) A. C. 495, 506, that the law is not necessarily a logical code and is not always logical at

all. We all know that it is above the rules of grammar and the niceties of correct diction. It is equally above the rigid formulæ of logic. Like the rules of grammar and syntax, they hold a high place in the law when capable of employment as a means of reaching a righteous and sensible result. But it is the righteous and sensible result, rather than logical consistency, that is to be aimed at. As a mere system of logic the law would be a stubborn and unpractical science, unfitted to handle the problems growing out of and affecting the lives and doings of men or the exigencies of their daily business. Nearly every social and economic "ism" that has confused men's minds and threatened their happiness and retarded their progress has traced its descent by logic from logic. And so have those legal judgments which have occasionally come as a surprise or shock to the community. It was by virtue of a decision most logically reasoned out that the Pennsylvania bicycle, not without its special wonder, found itself classified, for the purposes of the turnpike toll-gatherer, as a "sulkey, chair or chaise with one horse." It was by a process of flawless and merciless logic that the highest judicial tribunal in the world arrived at the judgment which remanded Dred Scott to slavery and fanned the kindling spark of civil war. Human affairs and interests and passions and caprices and meannesses and follies, with all of which and with the subtlest compounds of which the law has to grapple, do not move in syllogisms. Their analysis defies the maxims of logic. And hence the reason which the law is called upon to apply and of which it is said to be the perfection is something broader, more closely related to practical motives and needs and situations, and more susceptible to the influence of these. It is the reason of accommodation to actualities. It is the reason of Bishop Butler's precept that we must deal with men as they are, not as they ought to be. It is the reason of compromise and expediency in obedience, as nearly as possible, to positive and abstract right. We may differ widely

in our estimates of the logical qualities of such decisions as that legalizing special legislation by the device of classification,—or that permitting the Governor to assume, in scaling down appropriations, the functions that ought to have been exercised by a Legislature run wild or emulating the traditional example of the ostrich with its head in the sand. And yet it is just such decisions that vindicate the ability of the law, by substituting reason for reasoning, to guard the community against disaster from the shortsightedness of men attempting to provide for the future whose demands they are unable to discern. When Nansen in his "Farthest North" describes the hardships of that long and weary tramp across fields of ice moving in the opposite direction, and tells how at the end of each succeeding day of toil he and his companion would compute the distance they had covered, only to find, with sinking hearts, that a march over miles and miles of floes had brought them to a point but a trifle south of that from which they had started in the morning,—he says that he has often been asked how it was possible for them at that rate of exertion and progress to accomplish the whole distance, and that he has never been able to find any answer except this, "We had to,"—an answer as devoid of logic as can be, and yet palpably an all-sufficient one. And so necessity, in spite of its proverbial inacquaintance with the law, not only largely underlies its rules, but is often the only real explanation of its pronouncements. Unsustainable upon the grounds of logic, they are nevertheless just and right because of that necessity, and because it is the province of the law, in the language of Judge Gibson, not to mould the habits and manners and transactions of mankind to inflexible rules, but to adapt itself to the business and circumstances of the times and keep pace with the age. Our law has never suffered from the acknowledgment that its rules of evidence are founded upon necessity, or that necessity is a sufficient ground for dispensing with them. Nor does it

follow that necessity may thus become an open door for iniquity. Just how far it is to sway is a concrete question to be determined in every case, not one to be answered in advance by any abstract limitation. The guaranty against its ever being permitted to control with the effect of working unrighteousness lies in a candid recognition of the fact that the law is not obliged to be logically consistent with itself. Following upon the decision sanctioning legislation for cities by classification, admittedly a legislative and not a judicial function, the most startling thing conceivable from the logical standpoint was the further decision judicially restricting the extent to which legislative classification might be carried. And yet no one doubts to-day that it was right; for it was indispensable to avoid intolerable evils bound to have ensued as well from overruling the former decision as from suffering it to be pushed to its logical extremes.

But to return to the lesson of fallibility inculcated by the shortcomings already apparent in the carefully drawn Constitutional Amendments of 1909, and to the example of hasteless and tireless accuracy afforded by the mode adopted in the preparation and enactment of the German Civil Code, —may not a consideration of these serve to impress upon us the advisability of a more cautious attitude towards new legislation generally? As in every comparatively new country, the trend in America has all along been towards over-legislation, towards legislative experimentation and imitation. Somewhere somebody is forever discovering that something is wrong, or that something is or should be wanted. His active mind quickly determines upon just the thing to correct what is amiss or supply what is lacking. To abide a general awakening to the existence of the need and the appropriateness of the cure, both sufficiently apparent to him, would be a waste of precious time. The ready and easy way is to force his discovery upon everybody by a statute. The ambition of the average legislator to signalize himself, the desire to oblige a friend or group

of friends, or some other less respectable motive is enough to find a sponsor for the proposed enactment. Judiciously managed, a little personal influence, the opportunities of reciprocity between members similarly situated, the indifference of the many and the friendly aid of a few may be enough to insure its passage. But not only do we groan under the benevolent ingenuity and industrious statesmanship of our own immediate fellow-citizens. There are benevolent, ingenious and industrious statesmen elsewhere. The same sort of thing that is going on in our midst is going on in our sister States, and wherever in this broad land a measure has been thus enacted, it straightway becomes the pattern upon which others are drawn and passed here; for why should we not have what others have? That conditions with us are different, or that what may fit into the legislation of one State will not fit into that of another, these are trifles hardly worth considering. And if we confessedly do not need it now, it may come in handy later on. Nor is it ordinarily thought of that a statute which means one thing in one State under its decisions may mean quite a different thing in another State when interpreted by its Courts. The construction placed upon a substantially similar enactment of a sister State, whilst entitled to respectful consideration, can be allowed to prevail here only in so far as it is in harmony with the spirit and policy of our own law. One of the curious recent instances of imitated legislation is that of the act relating to and, except upon observance of a lot of inquisitorial and bothersome conditions, avoiding sales of merchandise in bulk. The itinerary of this particular brand of legislation, incompletely traced over the map of the United States, struck Maryland in 1900,—Washington, Utah, Tennessee and Wisconsin in 1901,—Ohio, New York and Connecticut in 1902,—Massachusetts in 1903,—Pennsylvania in 1905. A comparison of our enactment with others would indicate that it is a composite of those of Utah, Ohio and New York. The Utah

and Ohio statutes had, in their home States, been declared unconstitutional in 1904. In the latter part of 1905 the statute passed in New York met with the same fate there. But when in our Courts the reproduction of these enactments was assailed upon like grounds, its constitutionality was upheld. So that, if the assumption as to its origin is correct, we are saddled with a statute highly penal, exceedingly questionable in point of wisdom, and in many respects extremely embarrassing and difficult of application, transcribed from the statute books of other States where it was repudiated as invalid.

In an age like ours the tendency to provide by legislation for and against every imaginable thing is peculiarly active. It has been shrewdly remarked that mankind throughout the civilized world has once again reached a period when it feels its age and not unnaturally looks about it with an eye for symptoms suggestive of decay and for all manner of threatened ills, uneasy to be doing something to avert the one and the other. Certain it is that a note of our generation is its proneness to be scared about a great many things, some near at hand, some quite remote. We are afraid that our natural resources are nearing exhaustion, and we fall in love at sight with every proposition looking to their conservation. We are even trying to ascertain and in some way profit by what our crafty neighbors upon Mars may have been doing in that line. We are gravely calculating how long the sun can hold out to shine upon us and keep us alive, and what catastrophes may be looked for from the interference of runaways from other systems with our own. We pondered with more or less anxiety the scheduled plunge of our earth through the tail of the comet, until happily that became a tale of the past. We mistrust the very air we breathe as thronged with countless foes assail upon the breezes, astride of every floating particle of dust, small but strong for their size, and full of pernicious activity. We behold in a drop of unboiled water a

veritable reservoir teeming with hostile entities impatient to invade us. We see no end of gruesome chances in the ancient and honorable practice of kissing, in the moist caress of a dog, in the primitive and only unpatented treatment of a postage stamp. Some few of us are afraid of tainted money. We fear manifold perils lurking in a glass of wine, in a good dinner, in the soothing comfort of a cigar. We are apt to be alarmed by one thing or another pretty much all the time, and inclined to decry whatever may be fairly called living as dangerous to life. There is, of course, a measure of sense in this twentieth-century awakening to untoward possibilities long heedlessly ignored, and a measure of justification in the eagerness to provide against them. Its prevailing exaggeration, however, is leading to legislation of doubtful utility and indubitable absurdity. A judicious scheme of legislation for the protection of our forests and our water powers, our mineral deposits and wild lands, our fish and game, can call forth only hearty commendation. To incorporate in it a statute for the conservation of the State's wealth of bullfrogs is hardly essential to its completeness. The enforcement of approved and tried methods of public sanitation and hygiene is wise and timely. But is it needful to enact into solemn statute elaborate regulations on the subject of spitting or throwing offal into streets, or on a multiplicity of minor subjects which might, it would seem, be safely left to local boards properly constituted and spurred into action by an adequate central authority? Nor is it alone the direct effect of this species of legislation to swell the volume of the statute law that makes it objectionable. It has a potent and still more mischievous indirect effect in encouraging legislation upon all sorts of topics by habituating people to think that nothing is too trifling for legislative regulation, and that for every actual or fancied ill the ready relief is a public statute.

In the days before the Constitution of 1874, the recurring mania for legislation found its expression most

ordinarily in special and local enactments. Since that means of giving vent to it has been cut off the crop of general legislation has astonishingly augmented. Down to that date the general laws of Pennsylvania as reproduced in Purdon's Digest filled two volumes of modest size. Since then, although the regular sessions of the Legislature have been cut down to half their previous number, the digest of the general laws has so grown as to fill to overflowing four much larger volumes and the accumulation is going on at an ever-increasing ratio. In 1871 the Pamphlet Laws, covering 1398 pages, contained 1300 statutes, of which 1222 were special (183 of them incorporation acts, and a goodly proportion grants of pensions, gratuities, etc., to individuals) and 76 were general laws. In 1872 the number of pages was 1184, and that of statutes 1113, 1063 of these being special (with a considerable sprinkling of pension bills and 151 incorporation acts), but only 49 general laws. In 1879, 195 pages accommodated 211 acts, among which were 25 appropriation bills, 56 special acts (not a few of them granting pensions and gratuities), and 130 general laws. The Pamphlet Laws of 1909 make up a stately tome of 921 pages, with 659 statutes,—374 being appropriation bills, 24 special acts (mostly repealing others), and 261 general laws.

A comparison of these figures is interesting from several points of view. One of them has respect to the appropriation bills. The restriction of such enactments by the Constitution to a single subject, except as to matters within the General Appropriation Bill, accounts for their increase only to a very limited extent. The single appropriation bill in 1872, made grants of State aid to but nine charitable and educational institutions not under State control, including normal schools. The Legislature of 1909 made appropriations to 254 such institutions. As is well remembered, this work was done in such a heedless manner that the total



appropriated far exceeded the estimated revenues of the State, calling into play the peculiar function of the Governor in scaling down excessive appropriations, and obliging him, even after that task had been performed, to veto other measures because the treasury was exhausted. There has been much discussion of the wisdom and practical effect of the Pennsylvania system or lack of system in affording State aid to institutions of supposed public benefit. So far as concerns hospitals, it has recently undergone elaborate and intelligent debate at the hands of eminent members of the medical profession. The almost unanimous consensus seems to be that it has resulted in evil. Not by way of exception, but with painful reiteration there occur, coming from persons speaking with great authority, such statements as these,—

“Errors of judgment, timidity in refusal, and acquiescence in doubtful action by officials, encouraged by the social and political power of combinations of men, have converted the State's generous impulses into a mistaken system of charity.”

“The honesty of the whole State has been put to a test by years of plunder, which I fear it has not been able to stand.”

“Appropriations to hospitals have become a corrupting influence in politics.”

Utterances of this kind, emanating from responsible and well-informed sources, and deliberately made and published, cannot be brushed aside as extreme or prejudiced. And even if they be regarded as in some degree obnoxious to that criticism, it is perhaps not amiss to recall yet another effect of this indiscriminate and lavish giving of money by the State, indicated in the address to this Association of its then President, in 1905. It must be evident to any one who has had the opportunity and taken the pains to observe, that it has already to some extent checked and tends more and more to paralyze the disposition of the people to aid deserving and useful public institutions out of their own pockets. Charitable enterprise which but a few years ago found ready support at the hands of those of moderate

means, to whom a contribution is a sacrifice, now appeals to such persons and many others almost in vain. The habit of giving for these purposes is being unlearned by the generality of men. They approve heartily, to be sure, but advise application to the State or to the notoriously rich. The pride and glory of local self-help, shared in by all, in matters of public charity are departing from us, and with them will inevitably go one of the finest traits of the American character, making room for others of a very different sort. It is one thing to ask a man to join with the mass of his fellows in creating or maintaining a public institution, because of his identification with the community, by a gift proportionate to his resources, his station and his interest in the particular object to be served. It is quite another thing to ask a man for a gift solely upon the basis of his ability and willingness to give, in order to provide such an institution for a community to which he does not belong and has no direct relation, in ease of those upon whom the duty to provide it primarily rests. The one is the enlistment of all having a common interest in a common cause for the common benefit, aiming at their closer association and more practical sense of fellowship and mutual responsibilities, to the enlargement and strengthening of their local patriotism, their independence and their sympathy with one another. The other, and almost in the same degree the practice of soliciting from the State what the community ought to do for itself, are perilously near the asking of alms and aim at and tend to all that lies in the opposite direction. In these constant appeals for aid to the State and to the rich upon whom we have no rightful claims, we are accustoming ourselves to look with complacency upon the acceptance collectively of that which individually we would scorn to accept. But after all, what we do collectively is bound to react upon us individually. We cannot as members of a community, of an association, of a corporation, assent to the surrender of any vital prin-

ciple without yielding just that much of our individual self-respect and manhood and integrity. The habit of collective begging is demoralizing to the individuals engaging in it. The attitude of mendicancy, as unwholesome as unbecoming, which it forces upon them, begets the spirit of mendicancy, with all its unlovely train of mean mental and moral characteristics and of unworthy distinctions and relations. The coin that passes through many hands loses its lustre and the cleanness of the impression stamped upon it in the mint. It is refreshing to note that throughout the State there are quite a few high-class institutions whose managers either decline to apply for State aid because unwilling to pursue methods or subject themselves to conditions needful to obtain it, or are content with such amounts as by their insignificance, compared with the sums locally contributed, attest the absence of any improper inducement or consideration for the grant. On the other hand, it is openly charged that designing and unscrupulous parties are making the name and the pretence of serving the objects of public charity the instrument of speculation upon the unguarded liberality of the State for sordid and selfish ends wholly foreign to its purposes. Whether this charge be capable of substantiation by irrefragable proofs or not, the fact that it is confidently and widely made, under circumstances lending color to it and without meeting instant and convincing refutation, is enough to condemn the practice that has made it possible. Surely the time is at hand when there should be a system, founded upon adequate and stringently applied tests of indisputable merit and local support, by which the granting of these subsidies is to be regulated, freed from all taint or suspicion of personal or political gain or obligation. When that shall have come to pass, it may be that the Governor of Pennsylvania will no longer be called upon to perform functions the Constitution at least primarily delegated to the Legislature, and when our Commonwealth shall be in a position to rid

itself of the reproach that, whilst annually taking enormous sums from the licensing of the liquor traffic, it has thus far been unable to supply the means and suitable institutions for the care of the victims of that traffic before they have reached the stage of positive dementia. Whatever may be our several views concerning the legitimacy and necessity of the business, we must all agree that to many of our brethren in every walk of life their weakness makes the opportunities held out to them irresistible allurements to self-destruction, and that, in so far as these unfortunates can be restored to health and usefulness or kept out of further harm's way, the State is bound in ethics and humanity to apply to that purpose, ahead of every other, the revenue derived by it from that source.

Another and for present purposes more pertinent cause for reflection, however, is the number of general statutes passed,—49 in 1872, 261 in 1909—in contrasting which figures the change from annual to biennial sessions of the Legislature must not, of course, be overlooked. It may be taken for granted that no one at this day would be willing to go back to the practice of unrestricted special legislation. That of 1872 covers pretty much every subject that can be thought of, from the opening of a judgment of conviction of murder in Cumberland county, to the prevention of the growing of white daisies in Hayfield township; from the submission of the question of local option to a vote of the citizens of a certain ward of a particular city, to the prohibition of riding, driving and hitching horses on the sidewalks of a very particular borough; from the changing of venues for the trial of certain causes, to the annulment of certain marriages; from the regulation of the practice of medicine in one locality, to that of sheep, dogs and strays in another; from the validation of decrees of Courts of Record, of judgments of magistrates, and of conveyances in this or that county, to the exemption of property from taxation, the opening of streets and roads,

the authorization of public loans elsewhere; from an enactment annexing certain township lands to boroughs for school purposes, to one creating a revenue for the Hazleton Fire Department. No doubt the people of the various districts thus remembered either wanted this legislation or richly deserved it. But the people of the State at large had only 49 general laws to accommodate themselves to as their part of the penalty for that session. Of the 261 general laws produced by the Legislature of 1909, many are of the same character as the special laws of 1872 and by reference to the circumstances occasioning them intended for certain localities or persons only. Such are various acts validating borough annexations, sheriffs' sales, notarial acts, judicial process, municipal obligations, divorces, and the like. The Act assuming to forbid the entry of nonsuits by a "Judge \* \* \* of its own motion," was well understood to be directed against what was thought to be too stern a practice in one judicial district. Then again, a large number is of that species of general legislation which applies only to a given class of cities, counties or townships, and need not for the present nor for many years to come trouble the rest of the Commonwealth. Unique samples of such general legislation are, for instance, the act, "authorizing township school districts, which entirely surround a city or borough, to acquire, in such city or boroughs, lands and to erect thereon buildings for high-school purposes," etc.—and the Act amending the repealing clause of the dog and sheep law of 1893, excepting from the amendatory statute any county, township, borough or city of the Commonwealth, having special laws on the subject, and again excepting from that exception counties having between 150,000 and 250,000 inhabitants. Still, no matter how limited in present actual application, all these laws go upon the statute books as general laws, swell the body of the general statute law of the State, help to confuse and obscure it, and must some day be reckoned with if

only for the purposes of elimination. If it is true, as Mr. Buckle says, that in the halls of legislation the greatest benefactors of mankind have been, not those who have procured the enactment, but those who have procured the repeal of laws, and if it is also true that an ounce of prevention is worth a pound of cure, it would seem that whosoever has a kindly feeling for the people of Pennsylvania and would deserve well of them should set his face against and lend his influence to discourage this appalling multiplication of general statutes.

That there are subjects upon which further general legislation may be proper need not, of course, be disputed. The legitimate function of legislation is said to be "the adaptation of temporary contrivances to temporary emergencies." In the nature of things, there must always be some such matters calling for legislative regulation or correction. Even beyond this, with respect to legislation intended to be more permanent, though it is always dangerous and difficult, there are instances when it is never wholly unjustifiable. Where it is practicable by well considered and accurate codification of the existing law on some subject of general importance to put it into a comprehensive, intelligible and accessible form in the shape of a statute, the result, involving no addition to or departure from previous rules but a summing up of them, may prove convenient and of substantial advantage. Again on certain subjects uniformity in the law of the several States is so manifestly desirable, that legislative efforts in that direction, though effecting some modification of hitherto accepted rules, cannot be decried as needless or harmful. They unavoidably bring with them some disadvantages, but on a broad view these may be found balanced or overbalanced by indisputable advantages. The trouble about such statutes is that, being construable in each State by its own courts, the intended uniformity will soon lapse into diversity unless the various jurisdictions strive to keep together. It would

seem that as to statutes so designed the ordinary rules of interpretation should give way to that purpose. At any rate, the avowed aim of the Legislature towards uniformity ought to be considered by the courts as a rule of construction. Obviously, the statement of that doctrine is more readily made and assented to than its observance secured.

To the class of enactments intended to have a comparatively permanent life and therefore to be ventured on with caution and sparingly belong those of constant and disquieting recurrence affecting the practice in judicial proceedings. There has been, during the past year, in the general press, in legal periodicals, in public addresses and official documents, the usual grist of animadversions upon the slowness and intricacy and uncertainty in the administration of the law,—upon the so-called antiquated character of its methods,—upon the alleged absurdity of insisting upon presenting things and proving things and doing things differently in courts from what is by common consent approved in the transaction of business in the world outside of them, and the like. A circumstance which ought to dispose us to look upon these strictures with some degree of equanimity is that they are not confined to our State or Country. They seem to be rife in England, whose modernized procedure has of recent years been held up to us as a model of simplicity and celerity. It seems that some of the Courts are so far in arrears with their work that there has been talk of interfering with that sacrosanct institution, the Long Vacation. For the present this danger seems averted by the less revolutionary proposal to increase the number of Judges,—an expedient not altogether unknown elsewhere.

With respect to the criminal procedure, there is room for criticism of our cumbrous way of dealing with trivial offences, such as assault and battery without circumstances of aggravation or felonious intent, petty larceny and all its kin, malicious mischief and trespass, and quite a variety

of minor misdemeanors. Not only is there too much delay in their disposition in those districts where the criminal Courts sit only quarterly, involving between the sessions confinement of those unable to furnish bail for their appearance; but the expense to the public, and to the accused, or to the accuser if mulcted in costs, is out of all proportion. Besides, what with the preliminary hearing, binding over or commitment, indictment, submission to the Grand Jury, trial by Petty Jury, and all the pomp and circumstance of the Quarter Sessions, the prosecution of such an offence cannot fail to suggest the use of a heavy gun to bring down a fly. That in such cases a simplification of the procedure, consistently with the Constitution, and a speedy trial and disposition before magistrates would afford a welcome relief to all concerned can hardly be questioned. As to the graver offences, the improvement to be desired in our procedure hardly lies in the direction of what is known as "railroading." Without any of that sentimentalism which seems to have chosen the criminal classes as the objects of its tenderest solicitude, a decent regard for the rights of men, though criminally accused, forbids their over-hasty treatment. Indeed the facility with which under our system any person, even the most respectable and upright, may be subjected to criminal accusation and arrest, upon the irresponsible oath of the veriest scalawag in the community, is one of the particulars in which our law stands in real need of amendment. It is a live question whether, except perhaps in rare instances of undenied or apparently undeniable guilt or of absolute urgency, the power to order an arrest or public prosecution,—for the disgrace and suffering entailed by which Lord Mansfield declared that no amount of money could be regarded as an adequate compensation,—should not be lodged exclusively with a competent and experienced District Attorney, or, upon his improper refusal to act, with the court or a judge thereof, to be exercised in every instance upon due investigation of



all the relevant facts and only where a comprehensive view of them would warrant conviction. Aside from every other objection to our present methods, they involve an unconscionable waste of time and money which might be put to vastly better uses.

In this connection it may not be out of place to call attention to the doubts that have been cast upon the wisdom and the validity of the Indeterminate Sentence Act of 1909, which, as President of this Association, the Attorney-General commended to its notice last year. By some of the Judges of the State this enactment as a whole has been unfavorably received and commented upon. Much of what has been said against it it does not, or has not yet shown itself to, deserve. As declared by Mr. Todd, it is "an experiment in this State," but probably "capable of being made a great benefit to organized society." There has, however, been at least one decision questioning its constitutionality in one of its most important aspects and emphasizing serious difficulties, to put it mildly, in the way of its execution in others. The provision making the Judge in sentencing a convicted person to an indeterminate period ranging between a partly fixed minimum and a fixed maximum a mere automaton and vesting the power of measuring the exact duration of the imprisonment in the penitentiary authorities, is pronounced an innovation upon our law, the purpose of effecting which is not perhaps indicated in the title and which may therefore have to be stricken out of the Act. The propriety of limiting the discretion of the trial court in the matter of sentence by prescribing a minimum as well as a maximum is pretty generally denied. With some few exceptions the policy of our criminal legislation has been consistently the other way. There seems to be no good reason for, and practical experience not only suggests but has already shown substantial grounds for not, departing in any degree from that policy in a statute of this kind. The difficulty of execution referred to arises from the provision for a maximum sen-

tence to thirty years' imprisonment without benefit of the commutation laws, in cases of persons twice previously convicted, sentenced and imprisoned in a penitentiary for a term of not less than a year for crime committed within the United States. It is pointed out that as regards previous convictions, etc., in Pennsylvania, there is no ground for limiting this provision to those followed by confinement in a penitentiary, inasmuch as in various counties the courts are authorized to and do sentence either to the penitentiary or to the county prison for the same offence. But passing that, the great weight of authority generally is that an accused person, if to be made liable to a more severe sentence for the specific crime charged because of previous conviction, etc., is entitled to notice of that purpose and if need be to a trial of the question whether he has in truth been so convicted, etc. Under our own decisions upon Section 182 of the Criminal Code of 1860, providing for increased punishment on repeated conviction, it is certain that the fact, in order to serve as a basis for the enlarged sentence, must appear upon the record and must be either admitted or duly proven and found by the jury. To charge it in the indictment would for obvious reasons be eminently prejudicial to the accused, if not before the Petty, certainly before the Grand Jury, and therefore unfair. Possibly it might be brought upon the record by the filing of a suggestion separate from the indictment, with notice to the accused, an opportunity to him to admit or deny its truth, and the right of trial thereof in the latter event by the jury trying the indictment. Even then the question would remain of the kind of proof required, *e. g.*, of a previous conviction, etc., in another, perhaps distant, State. All these are matters which, in order to make the statute just and practicable, ought to be taken into careful consideration and, as suggested in the decision referred to, provided for by a re-enactment of it in acceptable shape. Then, too, it ought to be once more thought over whether the fact of two

previous convictions, etc., does in every instance demand a maximum sentence of thirty years. There may be reasons for it satisfactory to the theoretical student of penology. There may be the logic of the sociologist in it. But however learnedly they may discourse concerning the right and duty of society to protect itself against incorrigible criminality, to the common sense of the average man the provision appears grotesque and cruel. Though the intent of the statute be to release on parole for and during good behavior, that depends upon the will and judgment of others and may or may not happen. A thirty-years sentence to a man about forty is a life sentence. Take the case of a man of that age, who twice in his early life succumbed to overmastering temptation or the stress of need, and each time for the theft of a few dollars' worth served a year in a penitentiary under sentence imposed by a chronically severe or acutely bilious Judge. Does the well-being of society demand that upon his third conviction of any penitentiary offence, however near the bottom of the scale, he should, regardless of the blamelessness of his conduct during the intervening years and regardless of all mitigating circumstances, be condemned and perchance subjected to imprisonment for practically the balance of his life? It may be safely predicted that such retribution will not be exacted in Pennsylvania, the Act of 1909 notwithstanding. The experience in the past has been that where the penalty affixed to an offence was in the view of the average man excessive, juries have preferred to acquit even guilty men rather than sanction their unreasonable punishment by convicting. If this provision remains in the Act, it will either become a dead letter or the means not only of nullifying the very purpose intended to be served by it, but of securing immunity of actual and habitual offenders.

Passing to the matter of procedure in civil cases at law, it ought to be observed that the talk of assimilating judicial to the ordinary business methods of men in the

conduct of their own affairs, overlooks some very patent distinctions between the two. In the first place in judicial proceedings we are not dealing with our own affairs, nor generally even with those of persons who voluntarily put theirs into our hands. We are dealing with the rights and interests of persons committed to our arbitrament compulsorily,—not because they long for our intermeddling, but because they cannot escape it. We may treat things concerning ourselves alone in any perfunctory or slipshod way we choose. We have no moral right to treat the concerns of others in that way. When passing upon them, we are bound to sift questions of fact and law more thoroughly, to exact more convincing evidence, and to be more vigilant in excluding the probability of mistake or oversight. In a word, courts cannot, and whatever others may say, the parties concerned would not and ought not to be content to have them, proceed in the adjudication of matters coming before them upon anything like the same basis of information and investigation that men act on in their own business. Necessarily that distinction involves some delay for scrutiny and deliberation. Next, in the conduct of judicial proceedings it is indispensable to observe some regular forms, by their fixed character and the settled significance of their operation disclosing for all time just what has been done and decided. Individual business men in conducting their own matters or dealing with others may be as disorderly as they please. If they are willing to assume the risks of the absence of regular methods, that is their affair, and they will have themselves to thank for the consequences. If Courts were to act in the same way, the penalty would have to be paid by the parties and those coming after them,—which would be wholly wrong. All observance of forms, however, means something in the way of loss of time. Again, it would be manifestly impracticable for a Court having any considerable volume of business to transact to deal with each individual case as entitled to

its own peculiar treatment,—prescribing for each the most fitting length of time within which, after notice, the summons should be returnable, the defence entered, the objection to it heard, the issues defined, the trial had, the application for review of it made and argued, the appeal taken, and so on. No doubt, if such treatment of each case were feasible, its disposition might often be greatly expedited. A five days' notice might do as well as a ten days' notice,—a twenty-four hour rule as well as a forty-eight hour rule,—and so on. But all this would mean special applications, examinations and orders so innumerable that the wheels would soon become clogged, unless the force of Judges were increased to an extent as yet unheard of. Accordingly for each step in the progress of a cause there must be general rules which will fit all possible cases and which must be conformed to in all, save upon special showing in exceptional circumstances. Whilst allowing barely enough time in some cases, this requirement will of course involve the loss of possible speed in others. Then, when this or that step has been taken and the cause is ready for the next, it will not do to be in doubt as to the fact that the preceding condition has been performed, *e. g.*, that a summons or notice has been served. We are told in a reproachful tone that our mode of doing this is still the same as it was before there were post offices, telegraphs or telephones, and that we ought to substitute for our antique ways the use of these as the business world has long ago done. Notification by mail, or telegraph or telephone might of course be just as satisfactory as by a personal visit of an officer and a production by him to the party wanted of the written document,—provided there be no dispute about its receipt, or the identity of the party. But where these questions arise, as they constantly do, there would obviously be far more trouble about their settlement than under our practice. Suppose, *e. g.*, that a summons were served by registered letter receipted for in the name of the defendant and he should deny the

authenticity of the signature to the receipt. Or suppose a notice to have been communicated by telephone and the party alleged to have been thus notified to deny that he was at the other end of the line. It is only needful to recall such possibilities to realize the nature of the difficulties from which our old-fashioned mode of doing things is happily exempt.

Without extending this discussion it is evident that there is no getting away from the fact that in the administration of the law there will be some unavoidable delay, which must be put up with. That there may be simplification and saving of time may be conceded. If, however, anything is to be done in that direction in Pennsylvania, it should be done by a comprehensive revision of our procedure, so as to bring all of its parts into harmony with one another. The piece-meal tinkering and patching it has heretofore been subjected to leads invariably to confusion, and resembles nothing so much as the mistaken policy of the man who, determined that his dog's tail be reduced to a stump, but too tender-hearted to amputate the whole of it at once, cut off a little piece of it every few days. A comparison between our procedure and so recent and, it is said, in the main so generally acceptable a Code as that adopted in Kansas in 1909, shows ours to contain much which ought by no means to be sacrificed, and which, from the standpoint of good sense and practical utility, is in advance of that very modern compilation. It seems to be in the air that the ancient forms of action must go. The Practice Act of 1887 undertook a timid bit of surgery in that direction. It caused some anguish and much inconvenience, and added nothing to the beauty or symmetry or efficiency of our procedure. If any change is hereafter to be made it ought to go a long way beyond swapping names. It ought to cut deep enough to extirpate by the roots all that is responsible for present evils. If we must do anything, let us do it so as to make sure of results worth speaking of. Let us first

of all enlarge and broadly define the powers exercisable by Judges at chambers. Then require all actions without distinction between their causes or restriction upon the joinder of such to be commenced by complaint similar to a bill in equity. Issue the summons upon the complaint, returnable so and so many days after service at any time within a certain period after issuance. On or before its return let the defendant reply to the complaint by answer making a simple denial or admission of liability in whole or in part, with the averment of any existing counter-claim or set-off, for that purpose (except in actions for the specific recovery of a particular thing) to be available against every sort of demand and in the event of its establishment in excess thereof entitling defendant to a certificate. For any amount admitted by defendant to be due give the plaintiff immediate judgment with the right of execution and without prejudice to his proceeding for the balance, if any, of his demand. Follow a denial of liability in whole or in part, unsatisfactory to plaintiff, or the averment of a counter-claim not conceded by him, with a speedy oral examination before the Court or at chambers of the parties, or the persons designated by them as conversant with the facts, and of the pertinent documentary evidence; displacing thereby the present affidavit of defence system, the trick of which lies in accommodating, not the statement of the defence to the real facts of the case, but the recital of facts to the exigencies of some judicially approved statement of defence, and which therefore has become a good deal of a farce. Upon such examination let it be determined whether or not there are any material facts in dispute proper for submission to the jury. If there be none, enter judgment forthwith one way or the other. If there be none as to part of the case, let that be finally disposed of. If there be questions requiring the intervention of a jury, let the issues to be tried in order to settle them be at once formulated under the direction of the Court or

Judge, in the shape of interrogatories to be separately answered by the jury, leaving it to the Court after verdict to enter judgment upon the whole case in accordance with or notwithstanding the same. Restrict the granting by the trial or Appellate Court of retrials of questions submitted to the jury to those issues relative to which there was error or miscarriage wherever it is possible in the trial to sever them from the others, and treat the improper refusal to submit an issue demanded in a similar way. Allow no appeal to be taken except from a final judgment and no verdict to be set aside or judgment or proceeding to be reversed because of technical or other error not reasonably sure to have prejudiced the result,—and reduce all executions to a single pliable form. This, be it understood, is not offered by way of recommendation, but only by way of suggesting a rough outline of that short of which no further interference with our practice can make for salvation.

But no matter how radically it shall eventually be remodeled, as some day no doubt it will be, let it not be thought for a moment that the distinctive technical learning of the common lawyer will thereby become obsolete. The formal distinctions between the various causes of action, and between the methods of their assertion or denial may be blotted out. The substantial differences out of which those distinctions arose are actualities which legislation cannot unmake. To the understanding of those differences and all they imply with respect to the essentials of presentation and defence the rules of pleading at common law will remain the never-failing guides. Whether the initial pleading setting forth the claim be denominated a declaration or a statement or a complaint,—whether it be couched in technical terms of art or in vulgar phrase,—whether it aver a single cause of action or a number of causes,—those rules will still, as to each, be decisive of the elements it must contain in order properly to exhibit a right of recovery. Whether the defendant's reply be by plea or affidavit of defence or



answer, it is in those same rules that will be sought and found the tests of the sufficiency of the one or the other. Controlling the pleadings and issues in every case, they will equally upon the trial control the evidence. Thus, though the olden forms be laid away and the familiar paths forsaken, we shall yet be forever harking back to the venerable landmarks, and in the steady, searching light of the science of common law pleading justice will continue to be judicially administered in the days that are to come even as it has been in the days that are gone.

THE PRESIDENT: The next business in order is the reading of the Minutes of the last meeting.

J. HENRY WILLIAMS, Philadelphia: Inasmuch as the Minutes of the Fifteenth Annual Meeting have been printed and distributed among the members, I move the reading of the Minutes be dispensed with.

Duly seconded, and agreed to.

THE PRESIDENT: The next in order is the Treasurer's Report.

WILLIAM PENN LLOYD, *Treasurer*, then read the

### REPORT OF THE TREASURER

CAPE MAY, N. J., *June 28, 1910.*

Report of William Penn Lloyd, Treasurer of the Pennsylvania Bar Association, showing the receipts and disbursements from June 29, 1909, to June 28, 1910.

Dr.

To balance in hands of Treasurer as shown by last report .....	\$8,603 84
To dues collected for year ending July 1, 1908.....	\$10 00
To dues collected for year ending July 1, 1909.....	225 00

To dues collected for year ending July 1, 1910.....	\$1,960 00	
To dues collected for year ending July 1, 1911.....	3,020 00	\$5,215 00
To interest collected on special deposit.....		140 00
To sale of annual volumes .....		48 00
Total .....		<u>\$14,006 84</u>

CR.

By disbursements from June 29, 1909, to June 28, 1910.....	\$6,578 30	
By balance in hands of Treasurer as shown by certificates from the First National Bank, Mechanicsburg, Pa., and the Dauphin Deposit Trust Company, of Harrisburg, Pa., herewith submitted .....	7,428 54	
		<u>\$14,006 84</u>

Four thousand dollars (\$4000.00) of the above balance is on special deposit at interest as a reserve fund. The remaining \$3428.54 is subject to check.

Total amount of appropriation to the Legal Biography Committee to this date ..... \$6,950 00

Of this amount \$474.30 is still in the hands of the Treasurer, the sum of \$650.00 having been paid to the Committee since July 1, 1909. The \$474.30 is included in the amount subject to check.

The amount of \$900.00 appropriated to the Committee on Comparative Jurisprudence has all been paid to said Committee.

Estimate of expenses, including payments from appropriations to the Legal Biography Committee, for the year ending July 1, 1911 ..... 5,700 00

Here follows detailed statements of disbursements, as shown by the accompanying bills and vouchers, which includes all bills submitted to date.

1909		Voucher No.	
July	8 Pd. H. B. Grauley, cigars for banquet.....	1	\$99 55
"	9 " Thomas Printing House, printing 1500 postage stamped envelopes.....	2	34 50
"	9 " William H. Staake, Secretary, payment of sundry bills and disbursements for Pennsylvania Bar Association at Bedford Springs .....	3	228 30
"	9 " Bailey, Banks & Biddle, menu cards for banquet .....	4	150 00

		Voucher No.	
1909			
July	9 Pd.	Gazette Publishing Co., printing.....	5 \$3 75
"	10 "	B. F. Owen & Co., printing 300 copies Report German Code .....	6 9 60
"	10 "	Cyrus G. Derr, expenditures in matter of Legal Ethics Committee .....	7 29 24
"	12 "	William H. Staake, Secretary, incidental expenses paid at Annual Meeting at Bed- ford Springs, June 29 to July 1, 1909....	8 17 00
"	13 "	International Printing Co., on account printing translation of German Civil Code	9 500 00
"	14 "	Wm. Penn Lloyd, sundry expenses incurred at Annual Meeting Pennsylvania Bar Association, Bedford Springs, June 29 to July 1, 1909 .....	10 14 25
"	21 "	Cyrus G. Derr, payment on account of Newspaper Committee, Bedford Springs.	11 120 74
"	21 "	T. Elliott Patterson, on account of appro- priation to Legal Biography Committee..	12 150 00
Sept.	8 "	Thomas Printing House, circular letters...	13 1 50
Oct.	2 "	John C. Winston Co., portrait Thomas Wil- son Dorr .....	14 8 00
"	2 "	Comparative Law Bureau, annual dues....	15 70 00
"	11 "	Thomas A. Fenstermaker, report of Fif- teenth Annual Meeting and expenses....	16 175 50
"	29 "	T. Elliott Patterson, services as Secretary Legal Biography Committee and repair expenses to Library Room, Law Building, University of Pennsylvania .....	17 350 00
Nov.	6 "	Samuel E. Basehore, services rendered in preparation of two membership lists, list of deceased members, honorary members and delinquent members, and reading and correcting proof for Annual Volume No. 15, Pennsylvania Bar Association .....	18 75 00
Dec.	4 "	E. Moebius Estate, 1500 copies each of 7 portraits for Annual Volume, 115 copies of Chief Justice Gibson.....	19 226 25
"	4 "	Fidelity Storage & Warehouse Co.....	20 4 75
"	15 "	William H. Staake, Secretary, for clerk hire and services as Secretary of the Penn- sylvania Bar Association from July 1, 1909, to January 1, 1910.....	21 250 00
"	15 "	Wm. Penn Lloyd, Treasurer, for clerk hire and services as Treasurer of the Penn-	

			Voucher No.	
1909				
		Pennsylvania Bar Association from July 1, 1909, to January 1, 1910.....	22	\$250 00
Dec. 21	Pd.	George H. Buchanan Co., printing and binding 1500 copies of Annual Volume No. 15 of Pennsylvania Bar Association .....	23	1,503 60
" 21	"	George H. Buchanan Co., printing programs, pamphlets, circulars, postage stamped envelopes for the Pennsylvania Bar Association .....	24	280 08
" 21	"	Lewis Hopper, stenographic services to Pennsylvania Bar Association in preparation of Volume 15, Pennsylvania Bar Association .....	25	103 00
" 21	"	William H. Staake, proofreading, telephone, messenger service and other expenses incurred in the preparation of Annual Volume 15, Pennsylvania Bar Association .....	26	77 55
" 21	"	John S. Weaver, P. M., postage stamps and postage stamped envelopes from July 1, 1909, to December 21, 1909.....	27	27 80
" 21	"	W. A. Huber, stationery for Pennsylvania Bar Association from July 1, 1909, to December 21, 1909 .....	28	14 20
" 23	"	A. J. White Hutton, photograph and type-writing .....	29	8 00
1910				
Jan. 4	"	Cyrus G. Derr, telegrams and incidental expenses at midwinter meeting at Reading, Pa., December 28, 1909.....	30	3 72
" 11	"	Wm. F. Ingham, placing book shelves in vault of Fidelity Storage warehouse.....	31	18 50
" 11	"	A. T. Markley, storage, insurance, expressage, packing and distributing Annual Volume No. 15 .....	32	159 89
" 28	"	International Printing Co., balance due for printing of German Civil Code.....	33	400 00
Mar. 22	"	Thomas Printing House, printing and binding two books of notices and receipts for annual dues .....	34	13 50
Apr. 22	"	T. Elliott Patterson, for expenditures by the Legal Biography Committee of the Pennsylvania Bar Association .....	35	150 00
May 9	"	S. E. Patterson, mimeographic copies of Pennsylvania Bar Annual Meeting .....	36	2 50

1910		Voucher No.	
May 13	Pd.	Thomas Printing House, furnishing and printing address on 2500 postage stamped return envelopes .....	37 \$58 00
" 20	"	J. W. Wister, express agent, expressage....	38 60
June 1	"	Harry R. McCartney, County Treasurer....	39 16 00
" 1	"	Ætna and Hartford Fire Insurance Company's premium on insurance for stored volumes of Association reports.....	40 40 63
" 15	"	Samuel E. Basehore, special services rendered as typewriter in answering correspondence and addressing and mailing receipts and other work incidental to holding annual meeting and annual collection .....	41 75 00
" 15	"	George H. Buchanan Co., 250 stamped envelopes .....	42 6 75
" 15	"	S. E. Patterson, copying letters.....	43 3 35
" 15	"	Fidelity Storage & Warehouse Co., storage and drayage .....	44 46 30
" 15	"	William H. Staake, Secretary, for clerk hire and services as Secretary of the Pennsylvania Bar Association from January 1, 1910, to July 1, 1910.....	45 250 00
" 15	"	William Penn Lloyd, Treasurer, for clerk hire and services as Treasurer of the Pennsylvania Bar Association from January 1, 1910, to July 1, 1910.....	46 250 00
" 15	"	W. A. Huber, stationery and blank record books from December 28, 1909, to June 15, 1910 .....	47 33 84
" 15	"	John S. Weaver, P. M., postage on Annual Volumes distributed by mail and Association correspondence from December 28, 1909, to June 15, 1910.....	48 43 16
" 15	"	William Penn Lloyd, telephoning and telegraphing since December 28, 1909.....	49 4 90
" 15	"	J. H. Koller, storage of Annual Volumes to June 15, 1910 .....	50 15 00
" 22	"	George H. Buchanan Co., printing of sundry pamphlets .....	51 204 50
Total.....			<u>\$6,578 30</u>

## MEMORANDA OF MEMBERSHIP

Total number enrolled since organization.....		1752
Number deceased since organization.....	151	
Number resigned since organization.....	172	
Number dropped for non-payment of dues since organiza- tion .....	407	730
		<hr/>
		1022
Number reinstated .....		33
Honorary members .....		17
		<hr/>
Total on rolls at this date.....		1072

Respectfully submitted,

WM. PENN LLOYD,

*Treasurer.*

Examined, compared with vouchers, and approved.

WM. M. HAYES,

CHARLES F. HAGER,

ROBERT VON MOSCHZISKER.

Cape May, June 28, 1910.

THE PRESIDENT: What is your pleasure with reference to the report of the Treasurer?

CHARLES F. HAGER, Lancaster: I move that the Treasurer's Report, as it has already been audited and approved by the Auditing Committee of the Executive Committee, be received and filed.

Duly seconded, and agreed to.

THE PRESIDENT: Next in order is the report of the Secretary.

WILLIAM H. STAAKE, *Secretary*, then read the

## REPORT OF THE SECRETARY

*To the President and Members of the Pennsylvania Bar Association:*

Your Secretary would most respectfully report:

Since the adjournment of the Fifteenth Annual Meeting of the Pennsylvania Bar Association at Bedford Springs on Thursday, July first, 1909, the Secretary has been pursuing his usual routine in the performance of the duties of his office.

After the adjournment, the Secretary having been in receipt of so many inquiries from persons both in and out of Pennsylvania as to the number of members of the Bar in active practice in the Commonwealth, addressed a letter to a member of the Bar in each county, inquiring as to the number of members of the Bar in active practice in his county. The answers were tabulated by the Secretary and appear on page 512 of the Fifteenth Annual Report of the Association. The obtaining of these statistics required considerable labor on the part of the members inquired of, who had to discriminate between the members of the Bar residing and practicing in each county, and those residing in other jurisdictions who had been admitted to practice in the county. The Secretary desires to record his thanks for the willing coöperation of his correspondents. The returns from all the counties indicated 7339 members of the Bar in actual practice in the Commonwealth.

The Secretary attended the sessions of the Fifteenth Annual Meeting at Bedford Springs, Pennsylvania, on June 29, 30, and July 1, 1909, as well as the meetings of the Executive Committee on June 29, and July 1, 1909, at Bedford Springs, and on December 28, 1909, at Reading, Pennsylvania.

During the year the Secretary has been in frequent communication with President Endlich, Treasurer Lloyd, and the Chairman of the Executive Committee, Mr. J. B.

Colahan, Jr. He has also had considerable correspondence and a number of conferences with the Chairmen and members of the various committees of the Association.

The Fifteenth Annual Report of the proceedings of the Association, with its able and attractive addresses and papers, together with the reports of the committees of the Association, was prepared by the Secretary and distributed to the members of the Association. This report contained 521 pages, exclusive of the eight portraits, as compared with 631 pages in the Fourteenth Annual Report, of the year 1908, 643 pages in that of 1907, 487 in that of 1906, 445 pages in that of 1905, and 440 pages in that of 1904.

The annual address was delivered by the Honorable Amasa M. Eaton, of Providence, Rhode Island, the then President of the National Conference of Commissioners on Uniform State Laws, his subject being "Thomas Wilson Dorr and the Dorr War." The Honorable M. Hampton Todd, the President of the Association, presented a most interesting review of the legislation of the General Assembly of 1909, while the papers of John W. Appel, Esq., of Lancaster, on "Gibson and a Progressive Jurisprudence"; of William W. Smithers, Esq., of Philadelphia, on "Comparative Law as a Practical Science"; of A. J. W. Hutton, Esq., of Franklin, on "A Judicial Solecism"; and of Owen J. Roberts, Esq., of Philadelphia, on "Full-paid and Non-assessable," were each of a high character, most creditable to their authors, and were listened to with profound attention by the members and guests of the Association. In connection with the paper of Mr. Appel, there was printed a portrait of John Bannister Gibson, being a copy of an oil painting in the possession of the widow of Colonel George Gibson, a son of Judge Gibson, to whom the Association is indebted for the privilege of making a photograph of the portrait, which is reproduced at page 360 of our Fifteenth Annual Report.



Copies of the Annual Report were sent to the law libraries of the State and to those of leading law schools, to the local bar associations in Pennsylvania and to each State Bar Association of the nation which has extended the same courtesy to this Association. Copies were also, as has been our custom, sent to the American Bar Association, and to the National Conference of Commissioners on Uniform State Laws. A considerable portion of the correspondence of the Secretary is in explaining to applicants in all parts of the country that it is impossible for the Association to distribute its reports to the many local Bar Associations in the various States of the Union.

It may be well to call the attention of the membership to a resolution of the Executive Committee which has received the approval of the Association, requiring the payment of the sum of two dollars for a copy of any report of the Association. A provision of the by-laws for the sending of twenty additional copies to each member reading a paper by the request of the Association, has been in practice superseded by the printing of each paper in pamphlet form, and giving to the author of the paper one hundred copies for his private distribution. The composition work is kept in form, so that the same type is used in the printing of the Annual Report, making the cost to the Association only that of the paper and binding of the pamphlets.

During the year the Secretary has received reports from the following Bar Associations:

- Alabama State Bar Association.
- Arkansas Bar Association.
- California Bar Association.
- Colorado Bar Association.
- Florida State Bar Association.
- Georgia Bar Association.
- Illinois State Bar Association.
- Indiana State Bar Association.

Kentucky State Bar Association.  
Louisiana Bar Association.  
Minnesota State Bar Association.  
Mississippi State Bar Association.  
New York State Bar Association.  
The Association of the Bar of the City of New York.  
North Carolina State Bar Association.  
North Dakota State Bar Association.  
Oklahoma State Bar Association.  
Rhode Island Bar Association.  
Texas Bar Association.  
Virginia State Bar Association.  
Washington State Bar Association.

The official notices issued by the Secretary have been sent by him to the

*Dauphin County Reporter*, Harrisburg, Pennsylvania.  
*Delaware County Reporter*, Chester, Pennsylvania.  
*Lancaster Law Review*, Lancaster, Pennsylvania.  
*Legal Intelligencer*, Philadelphia, Pennsylvania.  
*Montgomery County Law Reporter*, Norristown, Pennsylvania.  
*Northampton County Reporter*, Easton, Pennsylvania.  
*Pittsburgh Legal Journal*, Pittsburgh, Pennsylvania.  
*York Legal Record*, York, Pennsylvania.

The Secretary repeats the request that members of the Association will confer a favor by advising him of the names of any other legal journals, law reviews or county reporters to which the official notices the Secretary issues may be sent by him. The Association is under obligation to the publishers and editors of these law journals for their gratuitous publication of printed matter sent to them, as well as for their generous coöperation in all the work of the Association.

Advance copies of the addresses and papers to be read at the Sixteenth Annual Meeting of the Association have been sent by the Secretary to the Publicity Committee, consisting of Cyrus G. Derr, Esq., and John B. Dampman, Esq., of Reading, Berks County, and the Honorable William U. Hensel, of Lancaster, for the preparation of abstracts and the furnishing of the same for the use of the some 181 newspapers of the Commonwealth.

The customary preliminary announcement of the time and place of the Annual Meeting was sent by the Secretary to the various law journals of the Commonwealth, and the circular and program of this Sixteenth Annual Meeting, containing the usual announcements were also sent to each member of the Association, as well as to the law journals of the State. Reply postal cards were, as is customary, sent to each member of the Association, numbering 1062, to which 593 replies were received, including those who stated they would attend, those who could not attend, and those who, at the time of their writing, were doubtful as to their ability to attend the Annual Meeting.

The Secretary has, since the 28th of December, 1909, had frequent personal conferences and extended correspondence with Manager John P. Doyle, of the Hotel Cape May, who, during the interval between December 28th and this meeting on June 28th, has been most active and untiring in his efforts to assist the officers and committees in making the meeting the success which we all hope it most certainly will be.

At the meeting of the Executive Committee at Reading, as will appear from the report of the Executive Committee, after the formal announcement by Mr. Frederick Bertolette, of Carbon, of the death of Mrs. Charles E. Rice, the wife of the revered and beloved President Judge of the Superior Court, a telegram of condolence and sincere sympathy was sent by the Secretary to President Judge Rice bearing the names of all the members of the Association present at the

meeting of committees at Reading. In reply to this message, the President of the Association received the following:

"WILKES-BARRE, Jan. 9, 1910.

"MY DEAR JUDGE ENDLICH:

"The action of the members of the Pennsylvania Bar Association assembled in your city in mid-winter Committee meetings on December 28th, in expressing to me their affectionate and mourning sympathy, will always be to me a cherished recollection. As I read the names of the senders of the telegram, I recognize in each the name of one whose friendly and sympathetic remembrance of me is very grateful to my heart. This expression of it was a gracious and kindly act which binds me closer to you all.

"Most sincerely yours,

"CHARLES E. RICE.

"To HON. GUSTAV A. ENDLICH,

"President of the

"Pennsylvania Bar Assn."

WILLIAM H. STAAKE,

*Secretary.*

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THE PRESIDENT: You have heard the report, gentlemen, what is the desire of the Association with regard thereto?

J. BUTLER WOODWARD, Luzerne: I move that the report of the Secretary be received and filed, and that the thanks of the Association be tendered to the publishers of the law journals of the Commonwealth for their uniform courtesies to the Association.

Duly seconded, and agreed to.

THE PRESIDENT: Next in order is the report of the Executive Committee.

JOHN B. COLAHAN, JR., *Chairman*, Philadelphia, then read the

**REPORT OF THE EXECUTIVE COMMITTEE**

*To the Pennsylvania Bar Association.*

Your Executive Committee respectfully reports:

That on July 1, 1909, immediately after the adjournment of the Annual Meeting of this Association, your Executive Committee met at the Bedford Springs Hotel and organized by electing J. B. Colahan, Jr., as its Chairman.

The Committee authorized the President of the Association to fix the time and place of the Midwinter Meeting of the Committee, referred to that meeting the following preamble and resolution offered by John W. Wetzel, Esq., of Cumberland;

"Whereas, it is apparent that more time must be applied to the discussion of important reports of Committees and other questions brought before the Association at its Annual Meeting, therefore

*Resolved*, that it is the sense of the Association that the reading of papers on Thursday morning be dispensed with, and that this day be devoted to such discussions and the order of unfinished and new business."

and then adjourned.

The President of the Association having fixed December 28, 1909, as the time and the city of Reading as the place for the Midwinter Meeting, your Committee met then and there at the Wyomissing Club, at 10.30 o'clock a. m.; the Chairman, J. B. Colahan, Jr., in the Chair, and the following members of the Committee in attendance:

*President*—GUSTAV A. ENDLICH  
*Secretary*—WILLIAM H. STAAKE  
*Treasurer*—WILLIAM PENN LLOYD  
*Executive Committee*—

ISAAC HESTER  
FRED. BERTOLETTE  
WILLIAM M. HAYES  
CASPER DULL  
JOHN S. RILLING

R. W. PLAYFORD  
CHARLES F. HAGER  
FRANK JACOBS  
N. H. LARZELERE  
ROBERT VON MOSCHZISKER  
FRANCIS FISHER KANE  
EDWARD E. KIERNAN  
WILLIAM H. ALLEN

There were also present the following Vice Presidents:

RUSSELL C. STEWART  
CHAS. M. CLEMENT  
JOHN I. ROGERS

By invitation of the Committee, members of other Committees of our Association and of the Berks County Bar were also present, viz:

HON. EDWARD W. BIDDLE  
RICHMOND L. JONES  
JOHN A. KEPPELMAN  
HON. WILLIAM KERPER STEVENS  
E. H. DEYSHER  
F. W. NICOLLS  
HON. GEORGE W. WAGNER  
C. H. RUHL  
H. P. KEISER  
LOUIS RICHARDS  
E. C. SCHAEFFER  
R. STAUFFER  
T. I. SNYDER  
WELLINGTON M. BERTOLET  
JOHN M. FRAME  
J. R. DICKINSON  
E. I. KOCK  
H. D. SCHAEFFER  
J. WILMER FISHER  
D. N. SCHAEFFER  
JOHN B. DAMPMAN  
JAMES M. LAMBERTON  
HON. H. M. McCLURE

Telegrams or letters of excuse were received from J. Norman Martin, who was "snow bound," and William A. Wilcox, who was detained by important business.

The minutes of the meetings of the Committee, held on June 29 and July 1, 1909, were read and approved.

For the information of the Committee, Treasurer Lloyd presented a statement (embodied in his Annual Report just presented to you) showing that, after payment of all bills presented to him, there was a balance in his hands of \$5614.68 to the credit of the Association, which was deposited, \$5000 as a reserve fund, and \$614.68 subject to cheque; 152 members had not remitted their dues for the current year; to these had been mailed a second notice.

This report was accepted and ordered to be filed.

The Secretary reported, that having received numerous inquiries from members of the Bar of Pennsylvania, as well as from those of other States, as to the number practising in Pennsylvania, he had addressed communications to a member of the Bar in each county of this State, requesting information on the subject, had carefully tabulated the result, which may be found on page 512 of the Fifteenth Annual Report of the Association; the aggregate number of practitioners is 7339. The action of the Secretary was unanimously approved.

The preamble and resolution of John W. Wetzel, Esq., of Cumberland, submitted to the Committee at its meeting on July 1, 1909, in reference to the dispensing with the reading of papers on Thursday morning of the Annual Meeting of the Association, was referred to the Committee of Arrangements with power to act.

After some discussion, Tuesday, Wednesday and Thursday, June 28, 29 and 30, 1910, were fixed as the time, and the Hotel Cape May, Cape May, New Jersey, as the place for the Sixteenth Annual Meeting of this Association. An invitation was extended to the Association to meet at Bedford Springs, but in view of the uncertain condition as to granting a license to that hotel, it was not considered as available, and Hotel Cape May was the unanimous choice of

the Committee. In making this choice, Chairman Colahan and Vice President Rogers stated that the managers of the hotel had agreed that all the conditions, set out in the letter of January 6, 1908, which conditions are also set out at length in the report of this Committee made in that year, shall prevail and be in force for this meeting. A letter from Mr. Doyle, the manager, dated Cape May, December 19, 1909, addressed to Col. Rogers, was read and directed to be appended to the Minutes of this meeting, together with a copy of the Secretary's letter of January 3, 1908.

The selection of the gentleman to deliver the honorary address at the sixteenth meeting of this Association was referred to the President of the Association.

It was resolved that a Committee of Arrangements, to consist of five persons, including the Chairman of the Executive Committee and the Secretary of the Association, should be appointed to make all the usual provisions for the next Annual Meeting of the Association.

The Chairman appointed the following: J. B. Colahan, Jr., Wm. H. Staake, Frederick Bertollette, Casper Dull and William H. Allen.

The Secretary reported the preparation of a most excellent paper by the Hon. Hampton L. Carson, the result of special studies made by him, during the past summer vacation in England, on the sources of Blackstone's Commentaries, which it was very desirable should be presented to the Association, and that it was important that a whole evening should be devoted to its reading; he further reported that a letter had been received from the Hon. William U. Hensel, suggesting that H. Frank Eshleman, Esq., of Lancaster, had been making a special study of Pennsylvania history, development, etc., compiled from the Colonial Records, the Pennsylvania Archives and the Statutes at Large, and that one of the subjects of this particular investigation was, "The Evolution of the Chancery and finally the Equity Court and System of Pennsylvania, its transition out of the Executive



Department into the Judiciary, etc." The reading of these papers was heartily approved by the Committee and the question of additional papers was referred to the determination of the Committee of Arrangements.

The appointment of a Reception Committee at the Annual Meeting was referred to the Chairman of this Committee.

Cyrus G. Derr, Chairman of the Publicity Committee of the Fifteenth Annual Meeting, made a statement which was received and filed, stating that the costs of publication of "The Narr" at the meeting in 1909, with incidental expenses, amounted to \$218.74, the receipts for advertising were \$98.00, leaving a deficit of \$120.74. The Publicity Committee was authorized to use its discretion as to the publication of "The Narr" at the next Annual Meeting of the Association.

Mr. Bertollette announced the death of Mrs. Charles E. Rice, wife of the beloved President Judge of the Superior Court, and moved that a telegram, signed by the members of this Association in attendance at this meeting, should be sent to Judge Rice, conveying their sincere sympathy, which was accordingly done.

Mr. Charles Wetherill, on behalf of the Special Committee on Comparative Jurisprudence, announced the completion of the translation of the Code of the German Empire, and presented for inspection a bound copy thereof, containing an introduction by Wm. W. Smithers, Esq., of the Committee. The price of the bound volume was stated to be \$5.00.

On motion, the thanks of the Committee were extended to the members of the Bar of Berks County for their generous and kindly hospitality.

The Committee adjourned to meet at Hotel Cape May, on the morning of Tuesday, June 28, 1910, at 10.30 o'clock.

In the evening, the visiting Committees were most hospitably received and entertained by President Endlich

at his home on Mineral Hill. This meeting, held in the face of howling winds and driving snows, was one of the most memorable of our history. The delightful luncheon at the Wyomissing Club, and the warmth and generous kindness of the host on Mineral Hill, made a deep impression on the surprising number of our members who braved the elements and showed their faithfulness to this Association.

At the invitation of The American Academy of Political and Social Science, some of your Committee attended its meetings held in April last, representing this Association, and your esteemed Secretary was one of the distinguished persons who took part in the discussions.

A communication was received by your Chairman from Francis Shunk Brown, Counsel for the Joint Committee of the Senate and House of Representatives of this Commonwealth, to consider and report upon the revision of the Corporation and Revenue laws of this State, to which prompt reply was made, offering any assistance in our power, but stating that there would be no meeting of the Association until the end of June.

Your Committee recommends to the Association the grave importance of the proposed revisions, the necessity of prompt attention to the subject, and the wisdom of such action on your part as may best conduce to the improvement of the laws relating to Corporations and Revenue.

On June 28, 1910, at 10 o'clock a. m., your Committee held its final meeting at Hotel Cape May. The Committee received the Report of the Committee of Arrangements, the results of whose labors are partly set forth in the Program for this meeting, which has been sent to the members of this body, and which further stated that Jesse E. B. Cunningham, Esq., Assistant Attorney-General, would reply to the toast of "The Bar"; E. Carroll Schaeffer, Esq., of Reading, to the toast of "The Junior Bar"; and John W. Hallahan, 3d, to the toast of "The Ladies."

The Treasurer read his Annual Report. On motion the Chair appointed Messrs. Hays, Von Moschzisker and Hager as an Auditing Committee, to examine his accounts and vouchers, and to report on same. The auditors made the Report appended to the Treasurer's Report.

The Secretary read his Annual Report.

The Secretary reported the receipt of a communication from the State Federation of Women of Pennsylvania, which was referred to the Association for such action as may be deemed proper.

It was agreed that the list of delinquent members be communicated to the Executive Committee at its Midwinter Meeting.

An invitation to the Banquet was directed to be extended to Prof. Ernest R. Freund and Francis L. Siddons, Esq.

The usual appropriation for the Annual Banquet was passed, which is respectfully submitted.

## PROGRAM

**TUESDAY, JUNE 28, 1910**

### **Afternoon Meeting, 2 o'clock**

President's Address, by HON. GUSTAV A. ENDLICH, Reading, Pa.

#### **Reading of Minutes**

Treasurer's Report—HON. WILLIAM PENN LLOYD, Mechanicsburg

Secretary's Report—HON. WILLIAM H. STAAKE, Philadelphia

#### **Reports of Committees**

Executive—JOHN B. COLAHAN, JR., ESQ., Chairman

Law Reform—ALEX. SIMPSON, JR., ESQ., Chairman

Legal Education—GEORGE WHARTON PEPPER, ESQ., Chairman

Legal Biography—HON. EDWARD W. BIDDLE, Chairman

Admissions—EDWARD J. FOX, ESQ., Chairman

Grievances—CYRUS G. DERR, ESQ., Chairman

Uniform State Laws—WALTER GEORGE SMITH, ESQ., Chairman

Special Committee on "Comparative Jurisprudence"—CHARLES WETH-  
ERILL, ESQ., Chairman

Special Committee on "Legal Ethics"—HON. NATHANIEL EWING,  
Chairman

Special Committee on "Constitution of Courts in Pennsylvania"—HON. HAROLD M. McCLURE, Chairman

Special Committee on "Contingent Fees"—HON. ABRAHAM M. BEITLER, Chairman

Special Committee on "Road Laws"—HON. HARRY WHITE, Chairman

Special Committee on "Attorney-General's Department"—HON. M. HAMPTON TODD, Chairman

Special Committee on "Digesting of Statutes"—J. NORMAN MARTIN, Esq., Chairman

Special Committee on "Judiciary Department"—THOMAS S. BROWN, Esq., Chairman

Special Committee on "Jury System"—THOMAS J. MEAGHER, Esq., Chairman

Appointment of Committee on Nominations

Consideration of Reports of Committees

**Evening Meeting, 8 o'clock**

Annual Address—HON. JAMES PENNEWILL, Chief Justice of the State of Delaware—"The Layman and the Law"

**WEDNESDAY, JUNE 29, 1910**

**Morning Meeting, 10 o'clock**

Further Consideration of Reports of Committees

Unfinished Business

Reading of Bills for Proposed Legislation

**No Afternoon Meeting**

**Evening Meeting, 8 o'clock**

Paper by HON. HAMPTON L. CARSON, Philadelphia—"The Genesis of Blackstone's Commentaries and their Place in Legal Literature, Illustrated by an Exhibition of Legal Classics, Portraits, Autograph Letters and Original Documents, Including Blackstone's Commission as a Judge, his Appointment as King's Counsel, Notes from the Commentaries in his own Handwriting: the Original First Edition, English; the First American Edition, the First Illustrated Edition, &c., &c."

Discussion of Papers

**THURSDAY, JUNE 30, 1910**

**Morning Meeting, 10 o'clock**

Paper by H. FRANK ESHLEMAN, Esq., Lancaster—"The Constructive Genius of David Lloyd in Early Colonial Pennsylvania Legislation and Jurisprudence—1686-1731."

Further Discussion of Papers

Unfinished Business

**Afternoon Meeting, 3 o'clock**

Appointment of Delegates to the American Bar Association and the  
Comparative Law Bureau

Unfinished Business

New Business

Election of Officers

**Annual Banquet, 7.30 p. m.**

HON. GUSTAV A. ENDLICH, retiring President, Toastmaster.

Responses to toasts are expected from His Excellency the GOVERNOR OF THE COMMONWEALTH OF PENNSYLVANIA, CHIEF JUSTICE PENNEWILL, GOVERNOR FORT, of New Jersey, and others to be hereafter announced.

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THE PRESIDENT: You have heard the report of the Executive Committee, what is the pleasure of the Association?

G. VON PHUL JONES, Philadelphia: I move that the report of the Executive Committee be accepted and filed.

Duly seconded, and agreed to:

THE PRESIDENT: Next in order is the Report of the Committee on Law Reform.

ALEX. SIMPSON, JR., *Secretary*, Philadelphia: The report of the Committee on Law Reform is in print, and copies of it may be had.

**REPORT OF THE COMMITTEE ON LAW REFORM**

*To the Members of the Pennsylvania Bar Association:*

GENTLEMEN:—Last year your Committee on Law Reform reported for your consideration (Report page 92):

"An Act relating to elections to take under or against the wills of decedents, to the recording thereof and of final decrees where parties have failed or refused to elect when required so to do, and forbidding distribution to such parties until they have made and filed their elections."

The proposed Act as then reported was debated at length (pages 220 to 237), and it was finally (page 237):

"referred back to the Committee to take into consideration the various suggestions that have been made on the floor of the Association, and that the Committee report at the next meeting of the Association."

The Committee have considered those suggestions, have amended the proposed Act, and now report it back for your approval in the following form:

### AN ACT

RELATING TO ELECTIONS TO TAKE UNDER OR AGAINST THE WILLS OF DECEDENTS TO THE RECORDING THEREOF AND OF FINAL DECREES WHERE PARTIES HAVE FAILED OR REFUSED TO ELECT WHEN REQUIRED SO TO DO, AND FORBIDDING PAYMENTS TO SUCH PARTIES UNTIL THEY HAVE MADE AND FILED THEIR ELECTIONS.

SECTION 1. Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania in General Assembly met, and it is hereby enacted by authority of the same: That surviving husbands or wives electing to take under or against the wills of decedents shall in all cases manifest their election by a writing signed by them and duly acknowledged by them before an officer authorized by law to take the acknowledgment of deeds.

SECTION 2. No payment from the estate of such decedent shall be made to any person authorized to elect to take under or against any will, unless his or her election signed and acknowledged as aforesaid, shall have been duly executed, acknowledged and delivered.

SECTION 3. Such election, or a certified copy of the final decree of any Orphans' Court in cases where there has been a neglect or refusal to elect within the time prescribed by the order of the said Court, shall at the cost of the estate, be recorded by the personal representative of the decedent in the office for the Recording of Deeds of the County where the decedent's will is probated, and it or a certified copy of it may also be recorded in any other office for the Recording of Deeds within this Commonwealth, with the same effect as if a duly signed and acknowledged declaration to the effect stated therein had been made by the person authorized to elect, and at his or her request recorded in said office according to law.

It will be noted that most of the suggestions made have been incorporated into the proposed Act as now presented. The major part of the debate last year turned upon the question of the permissive or compulsory recording of the election. But three courses seemed open:

1st. To file the election in the Orphans' Court and authorize its recording in the Recorder of Deeds office. That was the plan proposed last year;

2nd. To deliver it to the executor or administrator and direct its recording whenever there was real estate, or whenever any party in interest requested it;

3rd. To require its recording in all cases. This is the plan now proposed.

There was also referred to your Committee the following resolution (page 298):

*"Resolved, That, in view of the suggestions contained in the President's Annual Address touching the unsatisfactory character of the existing legislation governing the winding up of monetary and insurance corporations, the subject be referred to the Committee on Law Reform with instructions, if it seems expedient to them, to draft an act or acts upon the subject, and report thereon at the next annual meeting of the Association."*

Your Committee are of opinion that an Act of Assembly relating to the temporary suspension, and if necessary the winding up, of all corporations, joint stock associations and limited partnerships, subject to the jurisdiction of either the Insurance Commissioner or Superintendent of Banking, and the distribution of the assets thereof by those departments, substantially in the manner now prescribed by Act of Congress for National Banks, would be a most salutary Act. Your Committee, however, are also of opinion that it would be unwise for this Association, as a general rule, to attempt to secure the passage of matters of substantive law, for the reason that its influ-

ence will be minimized if it thus attempts to invade the general domain of legislation. It therefore recommends that it be discharged from further consideration of the resolution last above quoted. If the Association renews its request, your Committee will endeavor to comply therewith at the next meeting.

There was also referred to your Committee the following resolutions (pages 299-300) :

*"Resolved, That the Committee on Law Reform be requested to consider the advisability of recommending to the Legislature the passage of an Act of Assembly relieving parties from the necessity of excepting to the admission or rejection of evidence during the trial and permitting a party whose objection has been overruled, or whose offer has been rejected, or whose question or questions have been held inadmissible, to assign error to the ruling of the trial Judge without first having excepted thereto, and report thereon at the next annual meeting of the Association.*

*"Resolved, Further that the Committee on Law Reform be requested to consider and report at the next annual meeting in regard to the advisability of relieving parties from the necessity of excepting to answers to points or to the refusal of the Court to take off a judgment of nonsuit, and in other cases where the record shows the action of the Court, and that the party appealing therefrom and assigning error thereto was adversely affected by such action."*

In compliance therewith your Committee presents for your consideration the following draft of an Act :

#### AN ACT

RELATING TO THE TIME AND MANNER OF TAKING EXCEPTIONS IN ANY CASE IN ANY COURT OF RECORD IN THIS COMMONWEALTH, TO THE EFFECT THEREOF, TO TRANSCRIBING THE EVIDENCE TAKEN UPON THE TRIAL OF ANY CASE, TO THE CORRECTION AND PERFECTION OF SUCH TRANSCRIPT FOR THE PURPOSES OF REVIEW, AND PROVIDING THAT EXCEPTIONS NEED NOT BE TAKEN WHERE THE DECISION OF THE COURT APPEARS UPON THE RECORD.

SECTION 1. Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania in General



Assembly met, and it is hereby enacted by authority of the same, That from and after the passage of this Act it shall not be necessary on the trial of any action at law in any court of record in this Commonwealth for the trial judge to formally allow an exception to any ruling of his, but upon request made immediately succeeding such ruling, the official stenographer shall note such exception, and it shall thereafter have all the effect of an exception duly written out, signed and sealed by the trial Judge.

SECTION 2. Exceptions may be taken without formal allowance by the trial judge to any part or all of the charge, or to the answers to points, for any reason that may be alleged regarding the same, before the jury retires to consider its verdict, or thereafter by leave of the court, and they shall be thereupon noted by the official stenographer, and thereafter have all the effect of exceptions duly written out, signed and sealed by the trial Judge at the time of the trial.

SECTION 3. The official stenographer shall transcribe the notes of the evidence taken upon the trial of any case, under the following circumstances and those only: (a) when directed by the Court so to do, or (b) when an appeal has been taken to the Supreme or Superior Court; or (c) when he shall be paid for a copy thereof by a person requesting him to transcribe it.

SECTION 4. When the evidence in any case is transcribed it shall be the duty of the official stenographer to lodge the same with the prothonotary or clerk of the court, and notify the parties interested or their counsel, that the same will be duly certified and filed so as to become part of the record, if no objections be made thereto within 20 days after such notice. If objections be made the matter shall be heard by the court, and such order made regarding the same as shall be necessary in order to comport with the occurrences at the trial. If no objections be made, or when the transcript shall have been so made to comport with the occurrences at the trial, said transcript shall be duly certified by the official stenographer and by the trial judge, shall be filed of record in the case, and shall be treated as official and part of said record for the purposes of review upon appeal, and shall be considered as *prima facie* accurate whenever thereafter offered in evidence in the same or any other proceeding.

SECTION 5. The appellants and appellees, by writing filed and approved by the lower court, may agree that any part of the evidence appearing in the transcript as certified and filed, shall be considered as excluded therefrom upon the review of the case by

the Supreme Court or Superior Court, and, if they cannot agree, the court below upon motion of appellants and notice to appellees may order that any part or portion of the evidence may be omitted by appellant in printing the transcript for the purpose of review in such case, Provided, however, that appellees may themselves print such evidence, which printing shall be at their own expense unless it be otherwise ordered by the appellate court, or the appellate court may order any part or all thereof to be printed by appellant whenever said court shall deem it necessary so to do.

SECTION 6. Whensoever the decision of a court of record shall appear upon the record of a case, it shall not be necessary for the purpose of a review of that decision, to take any exception thereto, but the case shall be heard by the appellate court with the same effect as if an exception had been duly written out, signed and sealed by the court.

It will be noticed that the effect of the proposed Act will be

1st. To obviate the necessity for the formal allowance of exceptions;

2nd. To regulate the writing out and certification of the notes of testimony taken at trials;

3rd. To provide a method for determining what part of the stenographer's notes shall be printed on an appeal; and

4th. To obviate the necessity for taking any exception where the record discloses the motion made and the action of the Court thereon, as, for instance, in motions to take off nonsuits, motions for judgments *non obstante veredicto*, motions for judgment for want of a sufficient affidavit of defence, and the like.

Your Committee believes the changes embodied in the proposed Act are valuable ones and recommend it for adoption.

There was also referred to your Committee the following resolution (page 303):

*"Resolved, That the Committee on Law Reform be requested to consider and report upon the advisability of submitting to the Legislature for adoption an Act providing for supplementary proceedings after the entry of judgment against a defendant in any action; for the purpose of ascertaining through the examination of defendant or other witnesses what property may be subjected to the execution on the judgment."*

Your Committee are not prepared to report upon that subject at the present time, and therefore request that its consideration be postponed until next year. It is at least doubtful whether the end sought thereby could not be far better secured through amendments of the National Bankrupt Act and the State Insolvent Act, so as to allow a single creditor, whose claim has ripened into judgment, and an execution thereon been returned *nulla bona*, to proceed against the debtor in bankruptcy in cases within the Bankrupt Act, and in insolvency in cases not within it, with the usual examination following those proceedings.

There was also referred to your Committee the following resolution (page 303):

*"Resolved, That the Committee on Law Reform be requested to consider the advisability of recommending an Act of Assembly authorizing the Courts of Common Pleas to strike off on rule or motion a mechanics' lien filed in violation of a written agreement containing a waiver of the right to file the lien, which agreement was duly executed and filed of record in accordance with the requirements of the Act of Assembly."*

That resolution grew out of the decision in

Burger *vs.* S. R. Moss Cigar Co., 225 Pa.  
400 (1909)

reversing the Court of Common Pleas of Lancaster County in the same case,—26 Lancaster Law Review, 89—for

striking off the lien. The right to strike off under such circumstances upon proper petition filed, is expressly given by Section 23 of the Act of 4th June, 1901, P. L. 442-3, which was not referred to in the opinion of the Court below or of the Supreme Court, or in the paper book of either party, nor in any of the cases cited in any of those opinions or paper books. It would be idle to repeat the language of Section 23 in another statute. Doubtless the Supreme Court would have decided differently had their attention been called to that section. Certainly the Court below would not have had to argue so extensively that it had the right, had it known that that right was expressly given by the statute under which the lien was filed.

Your Committee also report for your consideration the following proposed Act:

#### AN ACT

REGULATING THE TIME AND MANNER OF PRODUCING THE EVIDENCE ON THE TRIAL OF ACTIONS TO RECOVER A MONEY VERDICT IN COURTS OF RECORD OF THIS COMMONWEALTH SO AS TO HAVE THE QUESTION OF THE LIABILITY OF EITHER PARTY, WHETHER GENERALLY OR FOR NOMINAL DAMAGES ONLY, DETERMINED BEFORE THE PRODUCTION OF ANY OTHER EVIDENCE, AND TO HAVE THE DECISION OF SUCH COURTS ON SUCH MATTERS REVIEWED BY THE SUPREME COURT OR SUPERIOR COURT.

SECTION 1. Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania in General Assembly met, and it is hereby enacted by authority of the same, That whenever on the trial of any action to recover a money verdict in any court of record of this Commonwealth an issue is raised as to the liability of the defendant to have any recovery whatever against him, all the evidence bearing on the question of such liability shall be first produced before any other evidence is admitted. When all such evidence is in the plaintiff shall so state to the court, whereupon the defendant may move for a judgment of nonsuit, for binding instructions in his favor, or that nominal damages only can be recovered. If the court shall be of opinion that any such motion should be sustained it may so order, but if no such motions are made or if the court overrules them, plaintiff may then introduce all his relevant evidence.

SECTION 2. Whenever on the trial of any such action the defence interposed, whether by way of set off or otherwise, requires the establishment of some particular fact or facts before that defence can become available at all, all the evidence bearing on such particular fact or facts shall be first produced before any other evidence is admitted. When all such evidence is in the defendant shall so state to the court, whereupon plaintiff may make a motion for binding instructions or that nominal damages to defendant only should be allowed. If the court shall be of opinion that all the evidence in the case at that time produced justifies sustaining the motion made it may so order, if not then the defendant may introduce all his relevant evidence.

SECTION 3. Whenever on the trial of any such action the defendant shall be of opinion that the evidence which he has introduced entitles him to binding instructions in his favor, or for nominal damages only for plaintiff, he may so move with leave to produce further evidence if his motion be overruled, whereupon the court shall give leave to plaintiff to produce any rebuttal evidence he may desire upon the particular point or points upon which defendant's motion is founded. If upon all the evidence in the case at that time produced the court shall be of opinion that said motion should be sustained it may so order, but if not then the defendant may introduce all his relevant evidence.

SECTION 4. If the court sustains any motion made under the provisions of this Act the party against whom the decision is made may take an exception thereto and have it reviewed by the Supreme Court or Superior Court as in other cases.

Your Committee has neither approved nor disapproved that draft, preferring for the present to submit it to the Association for such consideration as may be deemed best, and then, if thought wise, revised in the light of the debate thus had upon it. Judge Ralston, one of your Committee, was ill at the time the Midwinter Meeting was held, but thereafter he wrote to the *Legal Intelligencer* a letter on the subject, which was published in its issue of February 25th, 1910. It is here reprinted with his consent:

"PHILADELPHIA, Feb. 19, 1910.

"To the Editor of *Legal Intelligencer*:

SIR:—It has been said that some way ought to be found by which trials of actions to recover damages for personal injuries

might be shortened. In these cases a great deal of time is taken up in hearing testimony as to the character and extent of the injuries, especially when medical witnesses are examined and cross-examined at length. An Act of Assembly has been proposed requiring the plaintiff to establish his right to recover before evidence of the injuries is received. It seems to me the same end can be obtained under the present practice, and in a very simple way. Until the plaintiff has made out, *prima facie*, his right to recover, evidence as to his injuries is irrelevant and immaterial; if the defendant is not liable, it makes no difference how much the plaintiff was hurt. When the plaintiff has offered all his testimony as to the happening of the accident and calls a witness to prove the nature and extent of the injuries, the defendant's counsel may object to the evidence as irrelevant. This raises the question whether or not the plaintiff has made out a case. If he has the objection will be overruled; if he has not, the evidence will be excluded and the defendant's counsel may then move for a non suit or binding instructions, which will be granted. In this way much time may be saved. The plaintiff himself may be restricted to a description of the accident, and subsequently recalled, if necessary, although I think it better that the plaintiff should give all his testimony at one time, as it might be difficult for him to tell how the accident happened without to a certain extent describing his injuries. The great saving of time will generally be effected by excluding the testimony of the medical experts. An advantage of this method over a statutory enactment is that it need not be rigidly enforced. It sometimes happens that a physician is present at a great inconvenience and the court would permit him to be called out of the usual order. This is often done, and I think ought to be done whenever the court deems it advisable. I may add that in several trials the defendant's counsel have adopted the course herein suggested, thereby saving considerable time to the satisfaction of all concerned. As this practice has not been generally adopted, I think it may be worth while to bring it to the attention of the Bar.

Respectfully,

ROBERT RALSTON."

It will be noted that while the remedy thus suggested does not cover the entire ground sought to be covered by the proposed Act, it does suggest a practical measure of relief for a large part thereof. Perhaps it might be

extended to other classes of cases, and thereby obviate most of the difficulty, if the judges of the State would in fact adopt it. It is certainly well worthy of full consideration when debating the proposed Act.

ALEX. SIMPSON, JR.,  
*Chairman.*

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THE PRESIDENT: What is the pleasure of the Association as to the report of the Committee on Law Reform?

WILLIAM W. RYON, Northumberland: I move the report of the Committee on Law Reform be received, and its consideration taken up in its regular order hereafter.

Duly seconded, and agreed to.

THE PRESIDENT: Next in order is the report of the Committee on Legal Education.

JAMES M. LAMBERTON, *Secretary*, Dauphin: In the absence of the Chairman, I beg to present the following report:

### REPORT OF THE COMMITTEE ON LEGAL EDUCATION

*To the President and Members of the Pennsylvania Bar Association:*

The Committee on Legal Education herewith submit (1) a tabulated list of the counties which have dispensed with local examinations both for registration and for admission to the Bar, and require in lieu of such local examinations the production of the certificate of preliminary and final examinations by the State Board; (2) list of counties which accept the State Board certificate in lieu of examinations, but give to the applicant the option of passing a local examination instead; and (3) list of counties which conduct their own examinations, both preliminary and final,

and do not accept State Board certificates at all; the same having been prepared by our Chairman, George Wharton Pepper, Esq.

Respectfully submitted,

JAMES M. LAMBERTON,  
*Secretary.*

CAPE MAY, *June 28, 1910.*

#### REQUIRE STATE BOARD CERTIFICATES

##### COUNTY

ADAMS: The County Board of Examiners requires the applicant to pass the State Board Examinations, but does this without the authority of a formal Rule of Court.

##### ALLEGHENY

##### CENTER

##### CLEARFIELD

CLINTON: The County Board of Examiners requires the applicant to pass the State Board Examination, but does this without the authority of a formal Rule of Court.

##### CUMBERLAND

##### DELAWARE

##### FRANKLIN

##### HUNTINGDON

##### JEFFERSON

JUNIATA: The County Board of Examiners requires the applicant to pass the State Board Examination, but does this without the authority of a formal Rule of Court.

##### LACKAWANNA

LAWRENCE: The County Board of Law Examiners requires a Certificate that the applicant has passed his *Final State Board Examination* before it will admit him. This is done without the authority of a formal Rule of Court.

##### LEBANON

##### LEHIGH

##### LUZERNE

##### MERCER

##### NORTHAMPTON

NORTHUMBERLAND: As to the *Preliminary Examination only*, the applicant is required to produce a Certificate of the State Board.

##### PHILADELPHIA



## COUNTY

PIKE

SCHUYLKILL

TIOGA

UNION

WARREN

WAYNE

YORK

## ACCEPT BUT DO NOT REQUIRE STATE BOARD CERTIFICATES

**ARMSTRONG:** This County does not as yet require State Board Examination, but the Court has under consideration a Rule recommended by the County Board providing for the substitution of the State Board Examination in place of the County Examination.

BEAVER

**BERKS:** This County accepts the results of the State Board Examination after the County Board has passed upon the fitness of the applicant to take the Examination.

BLAIR

BRADFORD

BUCKS

CAMBRIA

**CARBON:** Right to inquire into character, etc.

CLARION

COLUMBIA

CRAWFORD

DAUPHIN

ERIE

**INDIANA:** This County accepts the State Board Examination, but requires the passing of a further local examination in Political Economy, Logic, Trigonometry, Analytical Geometry and Surveying.

LYCOMING

MONTGOMERY

**NORTHUMBERLAND:** As to the *Final Examination only*, the Rule of Court allows but does not require the County Board of Examiners to accept the Certificate of the State Board.

**SOMERSET:** The County Board accepts but does not require the Certificates of the State Board of Law Examiners. There is, however, no formal Rule of Court authorizing them to do this.

VENANGO

COUNTY

WASHINGTON

LAWRENCE: As to Preliminary Examination only.

DO NOT ACCEPT STATE BOARD CERTIFICATES

BUTLER: The County Board gives its own Examination, and no provision has been made whereby State Examinations can be taken in lieu thereof.

CHESTER

FAYETTE

GREENE: At present this County uses its own Examination, but has under consideration the advisability of substituting the State Board Examinations in their place.

LANCASTER: This County uses its own Examinations, and has made no provision for accepting the State Board Certificates in lieu thereof.

McKEAN

POTTER

SUSQUEHANNA

WESTMORELAND

WYOMING

THE PRESIDENT: What is your pleasure, gentlemen, upon this report?

WILLIAM HENRY SUTTON, Philadelphia: I move the report be received and filed.

Duly seconded, and agreed to.

THE PRESIDENT: Next is the report of the Committee on Legal Biography.

EDWARD W. BIDDLE, *Chairman*, Cumberland: The report of the Committee is in print and has been distributed among the members of the Association.

# REPORT OF THE COMMITTEE ON LEGAL BIOGRAPHY

*To the President and Members of the Pennsylvania Bar Association.*

GENTLEMEN:—In no year of its history has your Committee had to report as many changes by death in the

ranks of our judiciary, both State and Federal, as in the one now closing.

### UNITED STATES SUPREME COURT

The deaths of Mr. Justice Peckham and Mr. Justice Brewer have made a notable inroad upon the working power of that distinguished tribunal. Possibly no other two members of that Court represented as extreme ideas as they regarding their official duties. They were men of fine ability and exceptionally well equipped for their work, and in the discharge of their duties rendered valuable service to their country. The one, Mr. Justice Peckham, believed in and held to the strict observance of the old school view of judicial life, in not allowing himself to take part in any public matters aside from his official position, while the other, Mr. Justice Brewer, without in any way detracting from his official character as a great Associate Justice, gave his spare time freely and without reserve to educational, religious or general philanthropic matters in discharge of his duties as a citizen, aside from his official duties as a Judge. He has been most fittingly described "An Ideal American."

The appointment of Judge Horace Harmon Lurton, of Tennessee, and of Governor Charles Evans Hughes, of New York, to fill the above vacancies, has met with general approval throughout the country.

"To me, a lawyer, the Supreme Court of the United States is the most sacred thing that we have in this Government, and the appointment of men to that Bench is the highest and most sacred function that the Executive has to perform."—President Taft.

### THE FEDERAL JUDICIARY

The United States Circuit Court of Appeals has lost a most valuable and faithful member in this circuit by the re-

tirement of Hon. George M. Dallas. And in the death of Hon. William Butler, who for over twenty (20) years sat in the United States District Court for the Eastern District of Pennsylvania, the profession in this State has lost one of its distinguished and able members.

#### OUR SUPREME COURT BENCH.

Since the establishment of our elective judiciary system in April, 1851, sixteen (16) members of our Supreme Court including Hon. D. Newlin Fell, have been called to the office of Chief Justice. A former member of that Court, ex-Associate Justice Samuel Gustine Thompson, who had been twice appointed to fill unexpired terms, and whose father, Hon. James Thompson, had been Chief Justice of that Court for six years, died during the year.

#### SUPERIOR COURT

Since the creation of the Superior Court, in 1895, one-half of the original members of that Court have died, Wickham, Reeder, McCarthy, Smith and Willard. Hon. Edward N. Willard, whose death occurred March 3d of this year, after serving from 1895 to 1897, resigned from the Bench and resumed his active practice at the Bar. While on the Bench he rendered important service during the formative period of the Court's history.

#### COMMON PLEAS

The Courts of Common Pleas of the fifty-six judicial districts of the State have met with heavier loss by death within the past year than in any former year of our history as an Association. It will be remembered by those who attended the first annual meeting of our Association at Bedford Springs, in 1895, that the Common Pleas Judges Association of the State held their meeting at the same time

and place, and from that time to the present the Judges of the State have shown and taken quite an interest in our work. Four of their number, including our present presiding officer, have held the office of President of our Bar Association. During the year eleven deaths have occurred among those who had held commissions as Judges of the Common Pleas Court.

#### HISTORY OF DECEASED MEMBERS OF THE BAR

Fifty-two (52) members of our profession within the State have died this year, including the deaths reported among the judiciary. And while there may possibly have been some names omitted by the failure of some districts to report in full, yet notice was sent to every judicial district in the State, and your Committee believes that fairly accurate returns have been received. As the annual reports of this Association are becoming the only general and complete record of the names of the deceased lawyers of our State, the members of this Association within their respective judicial districts can greatly aid the Committee by sending to the local member in their district, or to the General Secretary of the Committee the name and facts of interest relating to any member of their local Bar who may have died during the year.

#### MEMBERSHIP OF THE COMMITTEE

With regret, your Committee makes note of the resignation from its membership of Hon. Robert S. Frazer, of Pittsburgh, who for years has furnished the accurate and valuable reports relating to the Allegheny County Bar. The Judge's official duties are requiring so much of his time that he finds it impossible to be longer responsible for the data from his district. As the Association looks to your Committee to secure and preserve the history of the Bench and Bar of the State, its work can be greatly aided by the co-operation of the members throughout the

State, and especially on the part of County Bar Associations.

At our meeting a year ago an appropriation not to exceed a thousand dollars was made for the year. During the year \$650 was deposited to the use of the Committee with the Commonwealth Title and Trust Company of Philadelphia, and the expenses of the Committee have been \$636.92, leaving a balance of \$13.08 on deposit June 30, 1910. An appropriation not to exceed \$750 is asked for the coming year.

The room of our historical collection in the Law School Building of the University of Pennsylvania has been kept open during the winter months by Messrs. J. K. Stone and Nelson P. Fegley, law students, recommended by the Dean of the Law Department. As the University of Pennsylvania has extended the same privileges to the Association as heretofore, your Committee recommends the following acknowledgment of its continued kindness:

*Resolved*, That the thanks of the Pennsylvania Bar Association are hereby extended to the Provost and Trustees of the University of Pennsylvania, and to the Dean and Faculty of the Law Department, for the courtesy extended the Committee on Legal Biography in giving the use of a room for their historical collection.

Respectfully submitted,

EDWARD W. BIDDLE,

T. ELLIOTT PATTERSON,

*Chairman.*

*Secretary.*

## HISTORY OF DECEASED MEMBERS

ARRANGED IN ALPHABETICAL ORDER, WITH JUDICIAL  
DISTRICT AND COUNTY IN PARENTHESIS

**Ammon, William L.** (19th J. D., York), born March 4, 1868; died August 25, 1909. Admitted to the Bar August 7, 1894.

**Atkinson, Louis E.** (41st J. D., Juniata), born April 16, 1841; died February 5, 1910. Admitted to the Bar September, 1870.

He was educated in the common schools and at Airy View Academy, Port Royal, and Milwood Academy, Shade Gap. He studied medicine, and on March 4, 1861, graduated from the Medical Department of the University of New York. On September 5, 1861, he enlisted in the regular army, and was promoted to surgeon of Pennsylvania Volunteers. He served through the war, but before he was mustered out was taken down with camp fever and rheumatism, which left him crippled for life. On account of his physical disability, he abandoned the practice of medicine and took up the law under Ezra D. Parker, Esq., of Mifflintown, and was admitted to the Bar in 1870, and twelve years later was elected to Congress and served for ten years. In 1901 he was appointed by Governor Stone to fill the judicial vacancy in his district caused by the death of Judge Lyons. He was an able lawyer, and equipped himself for his work by untiring, painstaking study of the law. It was said of him "that he was equal to every occasion," and no one was better fitted than he for the work he was called to do. Mr. Atkinson was very kind and helpful to the younger members of the Bar and took an interest in their work.

**Bakewell, Thomas Woodhouse** (5th J. D., Allegheny), born October 27, 1861; died July 7, 1909.

Mr. Bakewell attended Rutger's College Preparatory School at New Brunswick, N. J., from which he entered college and was graduated with honor in the year 1881. Thereupon he entered the Law Department of the University of Pennsylvania, from which he was graduated in 1883. His preceptor while at the Law School was the late E. Coppee Mitchell, the Dean of the faculty.

Within a short life he reached the very height of his chosen profession, and at his death left behind him no ene-

mies, but only those who respected his manly character, admired his mental attainments and well-deserved success or loved him for his winning personality, that placed him first and foremost in the truest sense a cultured Christian gentleman. He inherited his father's sturdy mind, tenacious memory, moral uprightness, and thirst for knowledge. In addition to those qualities of mind which made Mr. Bakewell a well-equipped lawyer, he possessed aptitude for and comprehension of mechanical problems. He was a good lawyer and a good mechanic. His business judgment was excellent and his personality was winning.

**Bell, Martin** (24th J. D., Blair), born September 30, 1849; died January 2, 1910. Educated at Bucknell University. Admitted to the Bar 1873.

He served two terms as District Attorney of Blair County, and in 1894 was elected President Judge of that judicial district, serving continuously until his death. He was noted for his regard for natural or common-sense justice, "and at all times adapted the harsh letter of the mould of equity." He had a remarkable retentive memory. A great number of pure food cases came before him. His decision in the Citizens' Supply Company Case, involving the right of an Ohio grocer to solicit orders in this State, based on the Interstate Commerce Law, was affirmed by the United States Supreme Court. Judge Bell was fond of manly sports. He was an officer and captain in the State National Guard for fifteen years. He was a charter member of the Pennsylvania Bar Association.

**Brock, Cyrus C.** (5th J. D., Allegheny), born April 26, 1848; died October 31, 1909.

After receiving a common school education he entered Waynesburg College, from which institution he was subsequently graduated. After pursuing his law studies he was admitted to the Green County Bar, October 6, 1879, and to the Bar of Allegheny County, November 26,



1886, and continued in active practice in the latter county until 1907.

**Bush, George W.** (38th J. D., Montgomery), born ; died December 20, 1909.

Mr. Bush was a prominent member for many years of the Montgomery County Bar, and at one time served as the District Attorney of the county.

**Butler, William** (15th J. D., Chester), born December 2, 1822; died November 2, 1909. Admitted to the Bar December 8, 1845.

From November, 1856, to November, 1859, he held the office of District Attorney, and in 1861 was elected Judge of the judicial district then comprising Chester and Delaware Counties. In 1871 he was re-elected and continued in the service of the State until his appointment, in 1879, to the Federal Bench as Judge of the District Court of the United States for the Eastern District of Pennsylvania, over which he presided for twenty years, retiring at the advanced age of seventy-seven.

He was thoroughly well fitted for his great work on the Bench. As a man and a citizen he could entertain no thought but the vindication of the rights of every suitor. He was well grounded in the principles of the law, and possessed a remarkable gift for their clear statement and enunciation. He was always so fair and so able as to command the respect and affection of every Bar over which he presided. His judicial services to his county, State, and country were of the highest order and value, and will cause his name and memory to be treasured by his fellow citizens.

He was one of the strong men of Chester County. Uncompromising in his support of honor and integrity, he hewed to the line, scorning sham or irregularity. He came of a family which had been in America for generations, and he loved his native country with a fervor almost unequalled.

He was the third of five sons of James and Rachel Butler, of Upper Uwchlan. A paternal ancestor was Noble Butler, who is mentioned creditably in the records of the Friends' Monthly Meeting of Kennett, and there married Rachel Jones, of Goshen, in 1727. On his mother's side he was a descendant of Joseph Phipps, who sat in William Penn's first Assembly in Pennsylvania, and whose family has been known in Chester County for over two hundred years.

**Cannon, R. Laura** (11th J. D., Luzerne), born 1881; died February 3, 1910. Admitted to the Bar 1901.

She graduated from Mallinckrodt Convent, Wilkes-Barre, and was the valedictorian of her class. In the resolutions passed by the Luzerne County Bar they paid the highest tribute to her remarkable career at the bar,—“that none of its members in so short a time had achieved greater success. A fluent speaker, clear and logical in argument. Her distinguishing characteristics as a woman and a lawyer were a keen, sound, analytical mind, untiring industry, practical optimism, together with modesty, yet with sufficient confidence in herself to render her every effort as the best.” Her father, Michael Cannon, was one of the leaders of his Bar, and in his office and under his direction her legal studies were so faithfully pursued that in two years' time she completed her course, passing her examination before she was old enough for admission. For a number of years she had been her father's stenographer, before coming to the Bar.

**Christy, George Harvey** (5th J. D., Allegheny), born January 22, 1837; died September 27, 1909.

Mr. Christy was educated at the Kinsman Academy and the Western Reserve College at Hudson, Ohio, and graduated from the latter institution in the class of 1859. After receiving his degree he came to Pittsburgh and was for several years instructor in mathematics at the Western University of Pennsylvania, where he showed the mental

ability which afterwards distinguished him at the Bar. He became a law student in the office of the Hon. Edwin H. Stowe and Hon. James Veech. In 1864 he enlisted in Knapp's Battalion, Battery A, Pennsylvania Volunteers, and remained in service until August, 1865, when he resigned his commission. He then returned to Pittsburgh and resumed his legal studies, and was admitted to the Bar within six months thereafter. After his admission he devoted himself to patent cases, finally following that line exclusively. During the period of his practice Mr. Christy was of counsel in nearly all of the important patent cases in this district. His practice, however, was not confined to this district, but soon after his entry upon the same his legal learning and his broad practical sense obtained recognition in other districts and led to his retainer in many other important cases away from home, particularly in the West, so that he soon had a large foreign practice and took a high rank among the patent attorneys of the country. He argued many important cases in other circuits, and assisted the Courts in the settlement of a large number of important questions of patent law which had previously been unsettled. He was always outspoken for righteousness, justice, and defence of the honor of the Bar. He was a scholar, and fully understood the dignity and importance of his profession. His lecture delivered to the Bar Association of Allegheny County on the "Evils of Case Law," will not soon be forgotten. It was full of wise and practical suggestions; his researches were extensive and his arguments always exhibited proof that he had made himself conversant with all that the Courts had decided upon the question at issue. A delightful companion, overflowing with wit and humor, he made his brother lawyers his firm friends.

**Clark, Allin R.** (1st J. D., Philadelphia), born ;  
died April, 1910. Admitted to the Bar June 27, 1896.

He was a son of the late John A. Clark, Esq., whose death was recorded in last year's report.

**Cleeman, Ludovic C.** (1st J. D., Philadelphia), born February 22, 1839; died December 29, 1909. Admitted to the Bar December 7, 1863.

He studied law in the office of George M. Wharton and had the old school office training. He graduated from the University of Pennsylvania in 1859. In his early years at the Bar he developed a large practice and was frequently in court, but during the past twenty years he had withdrawn from active practice and gave all his time to his duties as one of the trust officers of the Pennsylvania Company for Insurances on Lives and Granting Annuities. Mr. Cleeman was a man of genial and affable disposition, and "it was often said of him that he had not an enemy in the world."

**Crosby, Hon. Manley** (6th J. D., Erie), born March 12, 1834; died December 3, 1909. Admitted to the Bar at Buffalo, N. Y., in 1859, and to the Erie County Bar in 1865.

Mr. Crosby resided at Corry, Pa., for about forty-five years. He served two terms as Mayor of that city and also held many other positions of trust. In recent years he was engaged in manufacturing and banking. He was most highly esteemed by his professional brethren and by all who knew him. Manley Crosby was a splendid type of true manhood.

**Davis, Henry A.** (5th J. D., Allegheny), born December 27, 1855; died March 7, 1910. Admitted to the Bar 1880.

In the fall of 1881 he became associated in the practice of the law with the late Judge Christopher Magee, which partnership continued until Judge Magee's elevation to the Bench in the year 1885. Mr. Davis was a painstaking and thorough lawyer, giving full and careful attention to all matters entrusted to him by clients. During the time he

was engaged in active practice he was connected with many important cases which were carried to a successful termination mainly through his efforts.

**Diehl, Edward C.** (1st J. D., Philadelphia), born in 1840; died January 3, 1910. Admitted to the Bar April 14, 1860.

**Ehrgood, Allen W.** (52d J. D., Lebanon), born October 2, 1851; died May 24, 1910. Admitted to the Bar January 6, 1880.

He graduated from Millersville State Normal School in 1876. From 1887 to 1890 he held the office of District Attorney of Lebanon County, and in 1895 was elected President Judge of the Fifty-second Judicial District. He was re-elected in 1905.

Excepting his own family, there was no body of men nearer to Judge Ehrgood than the members of the Lebanon County Bar, with whom he came into almost daily contact. The honor, reputation and good name of his Bar were dear to him, and he took a deep interest in every movement that tended to promote its welfare and to make it deserving of the confidence of the people. On the Bench he was the Judge of the Courts. Off the Bench he was Allen W. Ehrgood. At the side Bar he was always approachable and in chambers, when questions of a general character were discussed, he was frank and free. He had a high sense of duty and it must have been a sore trial to him that physical disability prevented him from fully discharging the duties of his high office. Even in his last days, weak as he was, he persisted in his efforts to hold court, and it was only when nature refused to honor the demands of an imperious will that he bowed to the inevitable. Literally, Judge Ehrgood, true and faithful public servant, died in the harness. During his long career as Judge he ever displayed a keen

sense of right and a fixed purpose to administer justice. Endowed with a judicial temperament, a strong analytical mind and acute, perceptive faculties, he performed the duties of his office with marked ability and credit. As man, lawyer and Judge his unswerving honesty was predominant in his character and work, and stands to-day as a shining example before the world and the profession.

**Farnsworth, William C.** (12th J. D., Harrisburg), born 1864; died August 9, 1909.

**Foster, Charles D.** (11th J. D., Luzerne), died September 28, 1909.

**Fullerton, Rush** (33d J. D., Kittanning), born 1863; died July 10, 1909.

**Gobin, John P. Shindel** (52d J. D., Lebanon), born January 26, 1837; died May 1, 1910. Admitted to the Bar in 1858.

At the outbreak of the Civil War he enlisted as first lieutenant, April 19, 1861. He became colonel of the Forty-seventh Regiment Pennsylvania Volunteers, and on March 13, 1865, was brevetted brigadier-general of volunteers for meritorious services.

He was with General Sheridan in his celebrated campaign, during a part of the time commanding a brigade in the Nineteenth Corps and for a while he was Judge Advocate General of the Department of the South. He remained with his regiment at Charleston, S. C., in command of the First Sub-district, acting as Provost Judge of that city until January, 1866. He was mustered out of the service on January 9, 1866. After leaving the army General Gobin came to Lebanon, resumed his practice of the law and thereafter resided here. He took an active part in Republican politics. He served as Solicitor of

Lebanon County, and in 1884 was elected to the State Senate, in which body he served continuously until 1899, when he resigned to assume the duties of Lieutenant-Governor of the State. He served as a trustee of the Soldiers and Sailors' Home, at Erie, commissioner of the Soldiers' Orphan School and as a commissioner of the Gettysburg Monumental Association.

In 1874 he was commissioned colonel of the Eighth Regiment, N. G. P., and in 1885 brigadier-general commanding the Third Brigade, continuing in that position until his appointment by Governor Pennypacker to the command of the Pennsylvania Division, with the rank of major-general. He resigned as major-general in order that the late General Wiley, for many years commander of the Second Brigade, might be appointed to the office of major-general before his retirement on reaching the age limit. During the Spanish-American War General Gobin held a commission as brigadier-general of volunteers.

General Gobin was an active member of the Pennsylvania Bar Association, often attending the meetings, and at the meeting at Cape May in 1904 responded with great ability and earnestness to the toast, "Martial Law," in which he specially emphasized the importance of the military arm of this State in maintaining order, and protecting life and property among the foreign element in the mining sections of the State.

**Griffith, Samuel Blair** (5th J. D., Allegheny), born March 12, 1852; died November 19, 1909. Admitted to the Bar 1875.

He graduated from Allegheny College at Meadville and Harvard University. After completing his college and university courses he was entered as a law student, and admitted to the Bar of Mercer County, reaching a high rank and influential position in legal and political affairs in that county. In 1893 Mr. Griffith was appointed Assistant

United States District Attorney for the Western District of Pennsylvania, which required him to remove to Pittsburgh. He was then admitted to the Allegheny County Bar, and entered upon a general practice following the expiration of his official term as Assistant District Attorney and continued in active practice until his death. Mr. Griffith was appointed President of the Civil Service Commission of Pittsburgh under Mayor Guthrie, and ably discharged the duties of that responsible office. He possessed rare qualities, both as a lawyer and as a man, which came to him by right of inheritance from an ancestry eminent in Pennsylvania from the days of the colonies.

**Gross, William C.** (1st J. D., Philadelphia), born June 8, 1852; died May 2, 1910. Admitted to the Bar November 4, 1876.

Mr. Gross graduated from Dickinson College, Carlisle, Pa., and read law with the late Rufus Shapley, Esq. In 1906 he was elected to Select Council from the 38th Ward, but declined renomination. He was a good lawyer and highly esteemed by his brethren of the Bar. His genial disposition made him many warm friends, and those who knew him well appreciated his ability and friendship. He was a member of this Association.

**Guffy, A. J.** (8th J. D., Northumberland), born 1820; died January 31, 1909. Admitted to the Bar 1845.

At the time of his death he was the oldest member of his Bar both in age and practice.

**Harry, Benjamin F.** (38th J. D., Montgomery), born February 20, 1885; was accidentally killed at a grade crossing in Philadelphia, November 14, 1909. Admitted to the Bar October 1, 1906.

He was graduated from the Conshohocken High School and the Law School of the University of Pennsyl-



vania. He was Borough Solicitor of Conshohocken, a lay reader in Calvary Episcopal Church, and a member of the Penn Club and Wilson Law Club of Philadelphia. He was highly esteemed and had a promising future.

**Kelly, Robert B.** (1st J. D., Philadelphia), born 1874; died May 20, 1910. Admitted to the Bar December 7, 1906.

**Lee, James D.** (1st J. D., Philadelphia), born in 1844; died April 5, 1910.

He was a commissioned officer in the Engineering Corps of the United States Navy, in 1863, at the age of 19, and was attached to the flagship "Minnesota," participating in both bombardments of Fort Fisher. Admitted to the Bar February 15, 1868. Member of the Legislature of Pennsylvania in the years 1889-1890.

**Leisenring, J. L.** (24th J. D., Blair), died January 23, 1910.

**Lessig, W. Brooke** (1st J. D., Philadelphia), born in 1874; died August 20, 1909. He graduated from the Law Department of the University of Pennsylvania, and was admitted to the Bar in 1900.

**McCauley, Calvin H.** (25th J. D., Elk), born July 10, 1850; died April 15, 1910. Admitted to the Bar in 1872.

Mr. McCauley, was one of the best known corporation lawyers of Central and Western Pennsylvania. In 1875 he was elected District Attorney for Elk County, which office he held for a number of years, and thereafter other offices in the gift of the county.

In the course of his extensive practice, he took part in many cases of important legal significance and played a large constructive part in the advancement and growth of the coal, lumber and leather interests of the State of Pennsylvania.

He was prominently identified with the formation of the group of corporations known as the United States Leather Company.

He perfected the consolidation of the seventy tanneries comprising the Elk Tanning Company with such legal acumen that their continued operation has not even been the subject of criticism.

Many of the cases in which he figured as a railroad lawyer have attracted national attention, and among the leading ones may be noted the *quo warranto* proceedings instituted by the State of Pennsylvania against the Erie Railroad Company to escheat its railway and coal properties in Elk and Jefferson Counties; that of the Rothschilds and others against the Buffalo, Rochester and Pittsburgh Railway Company, to resist the reorganization of that Company, and the ejectment cases brought by the McKean and Elk Land and Improvement Company, to recover from the present owners extensive tracts in Cameron, Elk and McKean Counties.

At the Bar Association meeting, following the death of Mr. McCauley, in Ridgway, the Bars of Cameron, Clinton, Jefferson and Warren Counties were represented. Mr. McCauley was as well known in those counties as he was in his home County of Elk.

He was a gentleman of liberal instincts, and a generous contributor to churches and various charitable institutions. He was a man of public spirit and had given his time and lent his influence in many ways to various enterprises calculated to improve the town. He was a gentleman of unassuming manners and possessed of many social traits of character.

He was one of the charter members of the Pennsylvania Bar Association, and took an active interest in its work, and in 1906-7 was one of its Vice Presidents.

**McEnally, Joseph Benson** (46th J. D., Clearfield), born January 25, 1825; died January 5, 1910.

He graduated from Dickinson College, Carlisle, Pa., in the Class of 1845, and studied law at Sunbury, Pa., in the office of Hon. Alexander Jordan, who was afterwards President Judge of Northumberland District. He was admitted to the Bar of Northumberland County in the year 1849, and soon after entered upon the practice of his profession at Tamaqua, Schuylkill County, Pa.

Mr. McEnally came to Clearfield County, was admitted to its Bar in the year 1850, and since that time resided in the borough of Clearfield. He practiced his profession continuously at that place until within a few months of his death, with the exception of the period when he presided over the Courts of the judicial district in which Clearfield County was included, as President Judge.

Soon after his admission to the Bar in Clearfield County he was appointed Assistant Attorney-General, an office corresponding as to its duties with our present office of District Attorney.

In 1868, upon the resignation of Hon. Samuel Linn, Mr. McEnally was appointed by Gov. John W. Geary as President Judge of the judicial district composed of Clearfield, Centre and Clinton Counties, and served upon the Bench until the January following his appointment, a period of about six months.

He was a member of the Methodist Episcopal Church at Clearfield, Pa., from 1854 until his death.

In 1907, Dickinson College, his *alma mater*, conferred upon Judge McEnally the honorary degree of Doctor of Laws.

At the time of his death he was the oldest member of the Clearfield County Bar.

**Magee, Christopher** (5th J. D., Allegheny), born December 5, 1829; died July 3, 1909.

After receiving a preliminary education he entered the Western University of Pennsylvania, and was gradu-

ated from that institution with the degree of Bachelor of Arts in 1848, and was afterwards honored with a degree of Master of Arts and Doctor of Laws by the same institution. Subsequent to graduating from the Western University of Pennsylvania he entered the University of Pennsylvania at Philadelphia, and graduated therefrom with the degree of Bachelor of Arts, in the class of 1849. He thereupon took up the study of law in the office of William B. Reed, of the Philadelphia Bar, and was graduated from the Law School of the University of Pennsylvania, in the class of 1852. He was admitted to the practice of law at the Philadelphia Bar and in the Supreme Court of this State. In April, 1853, on motion of Colonel Samuel W. Black, Judge Magee was admitted to practice in the Allegheny County Courts, and from that time became an active practitioner. In 1856 he was elected to the Pennsylvania Legislature on the Democratic ticket, and in 1885 was appointed Judge of the Court of Common Pleas, No. 2, of Allegheny County, by Governor Robert E. Pattison, to fill the vacancy caused by the retirement of Judge Kirkpatrick. In November, 1886, he was elected Judge of that Court for the full term of ten years. Judge Magee was at one time a candidate for Judge of the Orphans' Court of Allegheny County, and in 1895 was nominated by his party for the office of Judge of the Supreme Court of Pennsylvania. He retired from the Bench in January, 1897, but kept up his interest in the profession that had occupied his time for so many years. He was a firm believer in the religion of righteousness, and was loyal to the teachings of his church and followed its precepts. He was a member of the Presbyterian Church and one of its strong supporters. His home life was blessed and happy. To the judicial office he brought absolute integrity, industry, learning and the conscientious determination to perform its duties fearlessly.

**Marr, A. G.** (8th J. D., Northumberland), born 1847; died July 5, 1909. Admitted to the Bar 1867.

He was a graduate of Princeton. Mr. Marr was one of the most refined and cultured members of the Bar, and was engaged in active practice until within a year of his death.

**Marr, William A.** (21st J. D., Schuylkill), born July 8, 1838; died March 12, 1910. He graduated from Bucknell University in 1860. Admitted to the Bar of Schuylkill County, September 8, 1866.

In 1898 he was elected Judge and entered on his judicial duties in January, 1899. At the end of his term he determined to retire, though urged to be a candidate for reelection. While on the Bench he was as industrious and painstaking as at the Bar, and proved himself fully equal to the arduous duties which the large and important mining, manufacturing and general business interests of the county demanded. He had a heterogeneous population to deal with, all European nationalities being represented, and in some sections predominating over the American population. As a Judge he was noted for his straightforward course, and administered justice impartially, without fear or favor, and was classed among the best Judges in the State. As a lawyer he was an honor to his profession; and as a Judge was pre-eminent for his rectitude of action, devotion to his work, his diligence, and his consideration for his colleagues on the Bench, the members of the Bar and for all who had business before him.

**Maxwell, James H.** (38th J. D., Montgomery), born April 10, 1859; died September 27, 1909. Admitted to the Bar April 6, 1885.

He was graduated from the Hill School in 1877, and from Lafayette College, Easton, in 1881. He was Secretary and Treasurer of the Pottstown Gas and Water Company for fifteen years.

**Miller, J. Ross** (23d J. D., Berks), born December 5, 1841; died May 23, 1910. Admitted to the Bar August 7, 1865.

He had not been in active practice for a number of years, but always took great interest in the history and traditions of the Bar, of which he was one of the oldest members at the time of his death. He served in the 128th Regiment, P. V., and was discharged for disability.

**Miller, N. Dubois** (1st J. D., Philadelphia), born September 27, 1852; died March 14, 1910. Admitted to the Bar October 11, 1873.

He studied law under the late Richard C. McMurtrie and George W. Biddle, and throughout his entire professional career sustained the high ideals of those later leaders of the "Old Bar." He was respected by all who knew him, and of those who knew him well was not only respected but loved. He had attained a fine position at the Bar, and aside from his work as a busy and active practitioner, was an author of recognized merit in his work on the "Competency of Witnesses in Pennsylvania," written before the later Evidence Act was passed. He was a good lawyer, a good citizen and a good man. The Bar meeting held in his memory was one of the most sincere, and the tributes there paid to him the most fitting and affectionate of any meeting of its kind held within recent years. Mr. Miller was an active member of this Association and one of its charter members.

**Noar, Samuel** (1st J. D., Philadelphia), born July 12, 1870, died September 15, 1909. He was educated in the public schools of Philadelphia, and graduated from a private school for boys in Chester, Pa. Admitted to the Bar April 9, 1892.

He served as a member of City Councils for several terms, retiring in 1901.

**North, Edmund Doty** (2d J. D., Lancaster), born March 6, 1842; died March 13, 1910. Graduated from Princeton College in 1867.

Admitted to the Bar in 1870. He was a brother of the late H. M. North, who was recognized for many years as one of the leaders of the Lancaster Bar. During his forty years' membership at the Lancaster Bar he endeared himself to his fellow members by his "kindly disposition." In his death the Bar lost a faithful member, a learned lawyer and an upright man, who held the respect of the Bench and Bar and a large clientage.

In all his professional dealings he was courteous, gentlemanly and conscientious. In the examination of legal questions he was most industrious, and was always ready and prompt to furnish information to his legal brethren.

He was a close student, a painstaking practitioner, and his library was most industriously annotated. In his researches he became so familiar with precedents that he could lay his hand on authorities or find them most expeditiously. He was scholarly in his tastes and was profoundly versed in many branches of learning. He was always sincere, affable and genial.

He had deep convictions on the subject of religion and was a close and ardent student of the Bible, and he endeavored to exemplify in his life the precepts of the sacred Word.

Mr. Hensel, in speaking of him, said:

"Among all who had come and gone since his own admission to the Bar there were few whom he knew longer, better or more fondly than this friend of forty years, and related the following incident of their early training at the Bar: We were associated in a little club of seven lawyers—of whom I alone now remain here—formed to cultivate the art of extempore speaking. We met weekly, each successively presiding, the others dividing into two sides, after which the chairman proposed a topic for debate on which every one had to speak twice for five minutes. The idea

was North's; and to that unique and useful exercise no one contributed so much of quaint individuality as he."

**O'Brien, Charles J.** (1st J. D., Philadelphia), born in 1871, died August 14, 1909. He read law in the office of White and Taulane, and graduated from the Law Department of Temple College. Admitted to the Bar July 17, 1899.

He was associated in the practice of law with Hon. Reuben O. Moon.

**O'Donnell, James Edward** (5th J. D., Allegheny), born August 7, 1858; died March 9, 1910. Admitted to the Bar December 31, 1881.

He graduated from the Central High School, Pittsburgh, in the Class of 1877. He then became a student at Yale University and pursued his studies there for two years. In the year 1879 he became a law student in the office of Thomas C. Lazear. Mr. O'Donnell was a man of great physical strength and vigorous health, and his comparatively sudden death was a distinct shock to all his friends at the Bar. He was possessed of many lovable traits of character. His manners were engaging, his character frank, manly, courageous, incorruptibly honest and absolutely honorable. His loyalty to his profession and to his brethren at the Bar was recognized by all, and his pleasant smile and cheerful greeting gave an outward evidence of his amiability and affectionate interest in his friends' welfare. As a lawyer Mr. O'Donnell was deserving of great praise. Almost from the time of his admission to the Bar he acquired a large practice, and his life was that of a busy and successful lawyer. While well read in the law he was a most diligent student to the last. His industry was absolutely untiring. He prepared his cases most thoroughly, compiling elaborate briefs of both facts and law before trial. His practice covered all fields of the law, and he was a ready, forceful, aggressive advocate, and a completely equipped practitioner.



**Purdy, George S.** (22d J. D., Wayne), born January 24, 1839; died August 31, 1909. Admitted to the Bar May 9, 1873.

He was educated in the common schools, taught school for a while, and later held the position of bookkeeper in one of the large industrial enterprises of the county. In 1866 he was appointed clerk of the County Commissioners, which he held for ten years, and during which period he prepared himself for admission to the Bar. In 1893 he was elected President Judge of the Twenty-second Judicial District without opposition, and in 1903 he was complimented by a re-election without opposition.

In the administration of his office as judge he was noted for his strong practical common sense, with a firm grasp upon legal principles applicable to the questions that came before him. He was seldom reversed.

**Radle, P. E.** (8th J. D., Northumberland), born ; died January, 1909. Admitted to the Bar 1897.

**Riche, George I.** (1st J. D., Philadelphia), born January 21, 1833; died August 5, 1909. Admitted to the Bar October 28, 1854.

He entered the army during the Civil War, and at its close became the Principal of the Central High School, and was at the head of that institution until his retirement in 1886.

**Rickert, J. Edward** (1st J. D., Philadelphia), born April 25, 1876; died June 23, 1909. He graduated from the Central High School. He studied law in the office of Hon. William H. Staake, and during part of his student years attended the Law Department of the University of Pennsylvania. He was admitted to the Bar in 1897.

Mr. Rickert had a fine mind and was well prepared for his work. His ability and popularity had won him an

enviable position among the men of his age, and a promising career seemed assured to him at the Bar had his life been spared. A young man of high ideals, retiring and unassuming in his demeanor, warm and steadfast in his friendships.

**Rogers, John I.** (1st J. D., Philadelphia), born May 27, 1844; died March 13, 1919. He graduated from the Central High School, Philadelphia, and read law in the office of Charles Ingersoll, Esq., and graduated from the Law Department of the University of Pennsylvania. He was admitted to the Bar May 28, 1864.

In 1869 he was elected to the Legislature.

In 1877 he became chief counsel for the Building Association League of Pennsylvania, conducting its important litigation and drafting all the important statutes on building and loan associations.

In 1873 he became a member of the City Troop of Philadelphia, and in 1883 became Judge Advocate General of the State, holding the office under both terms of Governor Pattison and under Governor Beaver. He drafted the military code of the State, known as the Act of April 13, 1887, and prepared a complete set of forms of procedure thereunder adapted to Pennsylvania. In July, 1902, he read a paper before the Pennsylvania Bar Association in which he was a charter member, on "Military Law and Its Tribunals," that is recognized as an authority on the subject.

He was warm-hearted, genial, enjoyed the annual meetings of the Association and always took an active part in its work. His loss will be felt by many, and those who knew him well will feel in his death a personal bereavement. He will be missed.

**Rohrbach, L. T.** (8th J. D., Northumberland), born  
; died March 8, 1909.

**Shalters, Charles S.** (23 J. D., Berks), born in 1876; died November 18, 1909. Admitted to the Bar December 23, 1899.

He was educated at the Keystone Normal School and Ursinus College, and graduated from the Dickinson Law School in 1897. He was a member of the Reading School Board, 1901-2, Solicitor for the County Commissioners, 1903-5, and during the Spanish-American War served in the Eighth Regiment, Pennsylvania Volunteers.

**Sharp, Isaac Shipman** (1st J. D., Philadelphia), born May 23, 1840; died September 3, 1909. Admitted to the Bar February 12, 1865.

He was a graduate of the Harvard Law School. Mr. Sharp was a careful and honorable practitioner and enjoyed the confidence and respect of the Bench and Bar. He was a contributor to the early numbers of the American Law Register, and for many years one of the proprietors of the widely known "Sharp and Alleman Legal Directory."

**Skinner, Hon. George W.** (39th J. D., Franklin), born January 13, 1846; died October 7, 1909. He was educated at Milwood Academy and Washington and Jefferson College. Admitted to the Bar May 7, 1879.

At the time of his death he was Superintendent of the Soldiers' Orphan School at Scotland, Pa., having been in charge since 1905. Prior to that he had served in the Legislature during six sessions as a member from Fulton and Franklin Counties.

Captain Skinner ran away from Washington and Jefferson College in 1862 to enter the army, and enlisted in the Seventy-seventh Pennsylvania Volunteers. He won his commission as captain by gallant services. He was journal clerk of the House before being elected a member thereof, and was twice the Democratic candidate for Speaker. Dur-

ing President Cleveland's term he was appointed pension agent at Pittsburgh. He was a man of kindly disposition and generous impulses, and had many friends throughout the entire State.

**Spencer, Samuel S.** (6th J. D., Erie), born 1826; died January, 1910. Admitted to the Erie Bar 1853.

For many years he was at the head of the well known law firm of Spencer & Marvin. At the time of his death, Mr. Spencer was the Nestor of the Erie County Bar. He was a graduate of Yale College, and the father of Judge Selden P. Spencer, of St. Louis.

**Steen, Charles** (1st J. D., Philadelphia), born in 1862; died April 18, 1910. Admitted to the Bar July 1, 1901.

He graduated from the Law Department of Temple College. He was interested in real estate and his legal work was along that line.

**Stewart, Robert Ekin** (5th J. D., Allegheny), born April 2, 1841; died March 30, 1910. Admitted to the Bar May 9, 1867.

After completing his academic course he entered Jefferson College at Cannonsburg, in 1858, and was graduated therefrom in 1860, when a little over nineteen years of age. After his graduation he attended the United Presbyterian Theological Seminary in Allegheny, Pa., in preparation for the ministry in that denomination. The Civil War came on during the period of his theological studies, and on August 6, 1862, he enlisted in Company E, 123d Regiment, Pennsylvania Volunteers, and on August 8th was appointed first lieutenant of his company. On May 12, 1863, he was honorably mustered out at the expiration of his term of enlistment. On March 27, 1865, he was appointed Major of the 24th Regiment, United States Colored Troops,

and was honorably mustered out October 24, 1865. After his return home he began the study of law under the late Chief Justice James P. Sterrett, and was admitted to the Bar of Allegheny County. Major Stewart was reared in a Christian home, and followed the Christian training of his youth down to the time of his death. In very early life he became a member of the United Presbyterian Church, and for thirty-seven years was a ruling elder in that denomination. His conduct, his walk and conversation always portrayed his Christian character. No one that came in contact with him need be told that he was a Christian gentleman. In his profession he was able, honest, sincere, industrious and painstaking, even to a fault. He had a thorough knowledge of the law and was never satisfied with anything that passed through his hands professionally until it had reached a state of perfection fully commensurate with his best ability, no matter how small or unimportant it might be. He was always interested in national, state and local politics, not as a politician, but as a patriotic citizen. His party called upon him in the year 1903, at a time it was in need of such a man. Political reverses made it essential to party success that men of independent thought and action in whom the people had confidence be chosen as standard bearers. Major Stewart was chosen as the candidate for District Attorney, and was a most potent factor in wresting victory from defeat. He served the county for three years as District Attorney, ably, conscientiously and industriously, and left the office as he entered it—pure and undefiled.

**Tate, Humphrey D.** (20th J. D., Bedford), born 1847; died November 29, 1909.

Early in his professional life he was elected District Attorney of Bedford County. He took an active interest in politics, and in 1882 was chief clerk in the State Department under Governor Pattison. During the second term

of Governor Pattison, Mr. Tate was his private secretary. From 1895 to his death he was engaged in the active practice of his profession.

**Thompson, J. Ross** (6th J. D., Erie), born December 6, 1832; died June 23, 1910. Admitted to the Bar in May, 1856.

He was a graduate of Princeton College, and the son of Hon. James Thompson, late Chief Justice of the Supreme Court of Pennsylvania, and a brother of the Hon. Samuel Gustine Thompson, of Philadelphia, late Justice of the Supreme Court. He was born at Franklin, Venango County, but moved to Erie with his family when a small boy; and thereafter that city was his home until his death. He early took a high position at the Bar, which he ever maintained, and continued in active practice until a few weeks before his death.

Colonel Thompson, during his fifty-four years' practice, devoted his entire attention to his profession. He enjoyed an extended practice, and for about fifty years was solicitor in his part of the State for the P. & E. R. R. Co., and other railroads, now of the Pennsylvania R. R. System. He was an able lawyer, a brilliant advocate and had a wonderful fund of information.

He was ever courteous, genial and companionable. He loved the common law and vigorously opposed all tendencies toward Code practice. He had a very extended acquaintance among the legal profession, by whom he was highly regarded. On the fiftieth anniversary of his admission to the Bar, he was tendered a memorable banquet by his brethren of the Erie Bar, at which he was presented with a loving cup and many testimonials of high personal and professional esteem.

In politics, he was a Democrat, and at one time the candidate of that party for Justice of the Supreme Court of Pennsylvania. He never sought public office. His wife died over thirty years ago, but he kept up his home, and

his life with his children has been a beautiful example of parental and filial devotion and affection.

**Thompson, Samuel Gustine** (1st J. D., Philadelphia), born in 1837; died September 10, 1909. He was educated at Erie Academy and the University of Pennsylvania. He was admitted to the Bar January 19, 1861.

Judge Thompson came from a family of distinguished lawyers. His father was James Thompson, who was on the Supreme Court Bench for fifteen years, the last six of which he served as Chief Justice. In 1893 Governor Pattison appointed him to the Supreme Bench to fill the vacancy caused by the resignation of Chief Justice Paxson. In the fall election of that year he was defeated by the present Chief Justice. During Governor Pennypacker's term he was appointed in 1901, a second time to fill a vacancy, and at the polls again met defeat.

Judge Thompson inherited his predilection for law, as he did his politics. He was always a consistent and conservative Democrat. He was most active politically early in life. In the early 80's he was President of the Democratic Association, and in 1876-77, during the dispute over the presidential election, visited Florida in the interest of Samuel J. Tilden. The one public position he has held outside of his judicial offices was the unsalaried honor of Commissioner of Fairmount Park. He occupied that position since 1887, and with John G. Johnson, selected most of the paintings that adorn the collection in Memorial Hall.

After leaving the Bench, in 1904, Mr. Thompson resumed his private practice. In 1907 he was appointed a referee in an important matter "which involved a large sum of money and very intricate questions of law."

He was a member of leading clubs, Vice President of the Fairmount Park Commissioners, a director of the Philadelphia and Erie Railroad, trustee of the Jefferson Medical College, one of the managers of the Forrest Home and connected with many financial institutions.

He was a lawyer and gentleman of the old school.

**Tryon, J. Warren** (23d J. D., Berks), born March 29, 1841; died September 29, 1909. Admitted to the Bar November 14, 1863.

He attended the Harvard Law School, and completed his studies in the office of John S. Richards, Esq., at Reading. In 1875 he was Solicitor for the County Commissioners of Berks County.

**Vincent, John H.** (8th J. D., Northumberland), born December 2, 1826; died August 19, 1909. He was a graduate of Lafayette College. He was a brother of Bishop Vincent, the founder of Chautauqua.

**Voris, C. G.** (8th J. D., Northumberland), born January 29, 1851; died , 1910. Admitted to the Bar 1876.

He was a graduate of Lafayette College. He was recognized as one of the leaders of his Bar.

**Waitneight, Harry P.** (15th J. D., Chester), died August 18, 1909.

**Waln, Samuel Morris** (1st J. D., Philadelphia), born at Walnford, N. J., October 29, 1853. Graduated at Yale College in 1877. Read law with the late George W. Biddle, Esq., and the late E. Spencer Miller. Admitted to the Bar December 4, 1880.

He was an active and energetic practitioner, and widely known to the Bench and Bar of Philadelphia and Southern New Jersey.

**Watts, Edward Biddle** (9th J. D., Cumberland), born September 13, 1851; died February 20, 1910.

He was a grandson of David Watts, and son of ex-Judge Frederick Watts, both distinguished lawyers. In 1873 he was graduated from Trinity College, and after his admission, two years later, to the Bar of Cumberland



County, he practiced law with success in Carlisle until the time of his death. He was an able lawyer and a man of high personal character.

For many years he was a prominent figure in the National Guard of Pennsylvania, having been captain of Company G, 8th Regiment, from 1885 to 1893, and major of the regiment for the following five years. In 1898, when the regiment went forth to the Spanish-American War, he became its lieutenant-colonel and continued as such until mustered out of service at the close of the war. For a long period he was a vestryman of St. John's Episcopal Church, of Carlisle.

**West, James Mortimer** (1st J. D., Philadelphia), born in 1838; died Dec. 20, 1909. He graduated from the Central High School. Admitted to the Bar October 19, 1861.

After his admission he turned his attention to newspaper work, and was on the Philadelphia *Times* from 1874 until its merger with the *Public Ledger*.

**Willard, Edward Newell** (45th J. D., Lackawanna), born April 2, 1835; died March 3, 1910. He graduated from the Yale Law School in 1857. Admitted to the Bar of Luzerne County, November 17, 1857.

The following extracts from the minutes of the Bar Association show his valuable services and the high esteem in which he was held by his fellow members of the Bar:

"He enlisted as a soldier in the War of the Rebellion, and served as captain from September 1, 1864, until December, 1865. When the war closed he was chosen as Judge Advocate and acted as such in the Second Division of the Fifth Army Corps.

"In 1867 he was appointed Register in Bankruptcy under the new Bankrupt Law enacted that year by Congress, and faithfully and creditably performed the duties

of that office until it was abolished by the repeal of that statute.

"He was director and President of many corporations, among which are: Scranton Savings Bank and Trust Company (now the County Bank), Stowers Pork Packing and Provision Company and Bridge Coal Company. He had been employed by most of the railroads and other large corporations located and transacting business in Lackawanna County. Some of them are: Delaware, Lackawanna and Western Railroad Company, Erie Railroad Company, Pennsylvania Coal Company, New Jersey Central Railroad Company, New York, Susquehanna and Western Railroad Company. His employment by these corporations was not temporary or special. He was regularly retained from year to year, except the period occupied as Judge of the Superior Court, until his death.

"The Superior Court of Pennsylvania was established in 1895. Judge Willard was one of the Governor's appointees to that Bench, and he was elected in the fall of 1896 and served with ability as one of the judges of that tribunal until he resigned in 1898.

"He returned to the Bar and remained actively engaged as attorney and counsel until his death.

"He was an industrious, zealous and able attorney, and from the beginning of his professional career won the esteem and confidence of a large clientele.

"A man of rugged integrity of character, zealous in the cause of those he represented, not so much in the present advantage as the ultimate welfare of his client, he acquired and conducted a large law business with marked ability.

"As a citizen he was connected with almost every local organization or institution having the welfare of the State, county or city for its purpose.

"He was active and influential, especially in the establishment of the County of Lackawanna thirty-two years ago.

"He was especially the friend of the young who needed aid. Many members of this Bar have received, when most needed, his friendship, substantial aid and words of encouragement.

"As a citizen, soldier, lawyer and Judge, he has left an enviable record; as a friend, husband and father, the recollections of his life are fragrant with those virtues which adorn an elevated and refined manhood."

**Williams, John H.** (11th J. D., Luzerne), born in 1877; died March 20, 1910. Admitted to the Bar

At the time of his death he was District Attorney for Luzerne County, having been elected in the fall of 1909 and entering upon his duties January 1, 1910. He was the youngest man ever elected to that office in the county.

**Wise, Leo** (31st J. D., Lehigh), born January 23, 1873; died April 15, 1910. Graduated from Muhlenberg College in 1892. Admitted to the Bar September, 1894. City Solicitor of Allentown 1905-1908, and re-elected in 1908 for three years.

**Zane, Andrew** (1st J. D., Philadelphia), born in 1835; died May 2, 1910. Admitted to the Bar February 14, 1857. He took an active part in local politics, and in the "eighties" represented the Fifteenth Ward in Select Council for two terms, and in Common Council for one term. His law practice in late years was mostly confined to the Orphans' Court.

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THE PRESIDENT: What shall be done with this report?

JOHN M. HARRIS, Lackawanna: I move that the report of the Committee on Legal Biography be received

and filed, and that the thanks of the Pennsylvania Bar Association be extended to the Provost and Trustees of the University of Pennsylvania as well as the Dean and Faculty of the Law School for continued courtesies extended to this Association in providing room in the Law School building for the historical collection of the Association.

Duly seconded, and agreed to.

THE PRESIDENT: Next in order is the report of the Committee on Admissions.

JOHN W. WETZEL, *Secretary*, Cumberland: In the absence of the Chairman, I beg to offer the following report:

## REPORT OF THE COMMITTEE ON ADMISSIONS

*To the President of the Association:*

The Committee on Admissions would respectfully report the following admissions to membership since the last meeting:

GEORGE J. CAMPBELL .....	Allegheny.
JAMES S. ROGERS .....	Philadelphia.
W. A. MACELDOWNNEY .....	Philadelphia.
SAMUEL H. KIRKPATRICK .....	Philadelphia.
HENRY SPALDING .....	Philadelphia.
CHARLES D. McAVOY .....	Montgomery.
BENJAMIN H. LUDLOW .....	Philadelphia.
HUMBERT B. POWELL .....	Philadelphia.
J. E. MULLIN .....	McKean.
HERBERT E. STOCKWELL .....	Philadelphia.
GEORGE E. WOLFE .....	Cambria.
WILLIAM MEADE FLETCHER .....	Philadelphia.
CHARLES A. O'BRIEN .....	Allegheny.
J. HENRY RADEY ACKER .....	Philadelphia.
ARTHUR E. HUTCHINSON .....	Philadelphia.
LOUIS BARCROFT RUNK .....	Philadelphia.
ALFRED S. MILLER .....	Philadelphia.
CHARLES S. SAYRE .....	Philadelphia.
ALBERT H. LADNER, JR. ....	Philadelphia.
GROVER C. LADNER .....	Philadelphia.
JNO. WILLIAM HALLAHAN, 3D .....	Philadelphia.

GIBBONS GRAY CORNWELL (reinstated) .....	Chester.
J. ROHRMAN ROBINSON .....	Delaware.
PETER M. SPEER .....	Venango.
ISAAC ASH .....	Venango.
FREDERICK A. SOBERNHEIMER .....	Philadelphia.
FREDERICK A. SOBERNHEIMER, JR. ....	Philadelphia.
CORNELIUS HAGGERTY, JR. ....	Philadelphia.
JOHN S. WELLER .....	Allegheny.
HIRAM H. KELLER .....	Bucks.
J. FRED. MARTIN .....	Philadelphia.
ROBERT A. STOTZ .....	Northampton.
WILLIAM H. KIRKPATRICK .....	Northampton.
WILLIAM T. CONNOR .....	Philadelphia.
THOMAS I. PARKINSON .....	Philadelphia.
ROBERT GREY BUSHONG .....	Berks.
HARRY J. DUMN .....	Berks.
JOHN M. STRONG .....	Philadelphia.
J. MORRIS YEAKLE .....	Philadelphia.
ROBERT S. GAWTHROP .....	Chester.
ARTHUR P. REID .....	Chester.
WALTER S. TALBOT .....	Chester.

Respectfully submitted,

EDWARD J. FOX,  
*Chairman.*

THE PRESIDENT: What is the pleasure of the Association upon this report?

WILLIAM HARRISON ALLEN, Warren: I move that the report be received and adopted, and that the gentlemen named be now elected as members of the Pennsylvania Bar Association.

Duly seconded, and agreed to.

THE PRESIDENT: Next in order is the report of the Committee on Grievances.

CYRUS G. DERR, *Chairman*, Berks: I beg leave to present the

**REPORT OF COMMITTEE ON GRIEVANCES**

*To the President and Members of the Pennsylvania Bar Association:*

Your Committee on Grievances has to report to you in the first place, that death has invaded its ranks and taken away a cherished member.

We make this record concerning him:

He achieved early and maintained to the last a prominent position at the Bar.

He was many times chosen by the people to fill important offices in County and State, and was many times appointed to high positions of trust, and in all these offices and positions he served with fidelity, tact, and firmness.

In the military world he shone with particular brilliancy.

He who will read his history back into that matchless conflict between the highest order of valor and its counterpart—the war of wars—the Civil War—will have to contemplate a bead-roll of honorable deeds.

“He was a soldier fit to stand by the side of Cæsar and give direction.”

The elements were well mixed in him, and in the aggregate made up a life in being and achievement round and complete.

We drop a tear of genuine sorrow at the grave of our late associate, General John P. S. Gobin.

Your Committee in its last report brought to your attention a complaint of inordinate sums of money expended in judiciary campaigns, begetting scandal, and laying the Judges elected open to suspicion.

Your Association referred the matter back to your Committee with instructions to ascertain and report facts and make recommendations.

The facts, as your Committee has gathered them, are that

Few, if any, judges go upon the bench or are re-elected without some cost to them in money; and

There are cases, not many, in which candidates, their friends and adherents, have in what were regarded the exigencies of heated campaigns, laid out sums of money grossly disproportionate to the salary of the office and unwarranted by the circumstances, creating conditions replete with unsavory implication and impairing confidence in the administration of justice.

The elective judiciary system is from the beginning or soon becomes political, in the sense that the Judges come to be elected through the organizations of the political parties respectively.

The party organizations cannot carry on business without money, and this money must be furnished in large part by the candidates.

It seems to result inevitably that a candidate for judgeship coming into the lists must submit to conditions and pay his share of expenses, and a moderate sum is generally fixed by rule of the party organization as an assessment for that purpose.

Beyond this, the cost of judiciary campaigns is uncertain and will vary with local conditions—the size and populousness of districts, the character of the people, etc.

We think that the attitude of this Association will be a perpetual menace to judiciary candidates who are willing to achieve nomination or election by the inordinate use of money; but

The question as to whether the expenditures in any particular campaign were or were not reasonable and lawful must in the first instance be left to the members of the local Bar, who best understand the local conditions; and

No matter how large expenditures may be, if the mass of local lawyers can contemplate them without abhor-

rence and protest, it will be difficult for this Association in any efficient way to intervene.

It seems to your Committee that unasked-for interference with such matter on the part of the Association, in any particular district, excepting under extraordinary circumstances, would be unwise and likely to be resented as an intrusion.

The time at which it will become proper for the Association to intervene will be when the local Bar association, or a considerable number of the members of the local Bar, shall in an open, or at least a formal, manner present a complaint and ask for aid.

Your Committee shall at all times stand ready to do its part with respect to such grievance, and though occasionally for want of matter we shall omit making an annual report, the approaches to this Committee will be kept always wide open for complaint upon any subject within our comprehensive jurisdiction, and we shall not hesitate in proper cases plainly and directly to present matters to the Association and thereafter to act pursuant to its instructions.

A grievance has been submitted to your Committee, to the effect that this Association is being used for the purpose of influencing and controlling the selection of Judges.

The fact, as your Committee understands it, is that

Though vacancies on the Bench are largely filled from the ranks of this Association, it is not true in any sense that the Association is being used to influence the selection of Judges.

Three hundred lawyers, more or less, attend these annual meetings, not the same lawyers every year, but a varying aggregation embracing in three or four years perhaps six hundred lawyers.

These lawyers, if not already distinguished, become so by their attendance here, and coming in contact with such and so many lawyers not only enlarges individual



merit, but advertises that merit to all parts of the Commonwealth, so that

When someone is needed to fill a vacancy on the Bench of an Appellate Court, for instance, the lawyer, whether Judge or practitioner, who is well known directly to six hundred distinguished lawyers and thereby known indirectly to the entire profession will have an important advantage over the narrower and home-staying lawyer who shines only in the limited sphere of his own County.

Your Committee therefore recommends to those who aspire to hold the scales of justice, and to those who already holding the scales of justice in the lower Courts aspire to holding them in the higher Courts, and to all who have honorable ambition of any sort, that they cherish this Association, because

"Length of days is in her right hand, and  
In her left hand, riches and honor."

F. C. MCGIRR,  
WM. RIGHTER FISHER,  
WM. M. HARGEST,  
CYRUS G. DERR, *Chairman*.

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THE PRESIDENT: What action shall be taken on this report?

J. N. BANKS, Indiana: I move the report be received and filed.

Duly seconded, and agreed to.

THE PRESIDENT: Next in order is the report of the Committee on Uniform State Laws.

WALTER GEORGE SMITH, *Chairman*, Philadelphia: The report of this Committee is in print, and I think it would be well for it to take the same course as the other reports.

Before any vote is taken, I would suggest that some errors have crept into the report. In the body of the report the name "McPherson" should be "James" wherever the word McPherson occurs. In the Bills of Lading Act, in the Appendix, a part of section 23 has been left out, which I will refer to more specifically when the matter comes up for consideration.\*

### REPORT OF THE COMMITTEE ON UNIFORM STATE LAWS

*To the Members of the Pennsylvania Bar Association:*

The Nineteenth Annual Conference of the Commissioners on Uniform State Laws was held prior to the meeting of the American Bar Association at Detroit, Michigan, August 19th, 20th, 21st and 23d, 1909. The Conference was attended by representatives from thirty States and there were present by invitation a number of eminent counsel, representatives of business men's associations and others.

After full and careful debate the Association approved of two Acts of great importance, viz: The Act to make Uniform the Law of Transfer of Shares of Stock in Corporations and the Act to make Uniform the Law of Bills of Lading. These Acts are now submitted for the approval of the Pennsylvania Bar Association, having already been passed by the States of Massachusetts and Maryland. For the information of the profession and the members of the Legislatures who will be called upon to examine these Acts, a pamphlet has been issued by the Conference of Commissioners, containing the five Commercial Acts approved by the Conference, viz: the Uniform Sales Act, the Uniform Stock Transfer Act, the Uniform Negotiable Instruments Act, the Uniform Warehouse Receipts Act, the Uniform Bills of Lading Act. Three of these Acts have been ap-

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\*The errors referred to by Mr. Smith have been corrected in the Report of the Committee as now printed.

proved by this Association, viz: the Sales Act, the Negotiable Instruments Act and the Warehouse Receipts Act, and the latter two have become the law of this Commonwealth.

The Acts now submitted for the consideration of the Conference are appended to this report with annotations approved by the Conference of Commissioners. It is hoped that the annotations and explanations will make the various provisions of these Acts entirely clear to the members of this Association, but emphasis may be given to the recommendations of your Committee by some special reference to each of the Acts and, first, as to the

#### UNIFORM STOCK TRANSFER ACT.

In a paper prepared by Francis B. James, Esq., a Commissioner from Ohio and formerly Chairman of the Committee on Commercial Law of the National Conference, and the present Chairman of the Committee on Commercial Law of the American Bar Association, it is said:

"In formulating this Act, the Committee on Commercial Law has treated certificates of stock as documents of title and as commercial paper. \* \* \* The Act \* \* \* deals primarily with a certificate of stock as a piece of commercial paper and, secondarily, its relation to the corporation issuing it. The fundamental principle of the Act is that a certificate of stock becomes the sole and exclusive representative of shares of stock in a corporation, and that such certificate shall pass freely from hand to hand, and that a *bona fide* purchaser for value of a duly endorsed certificate shall become the owner of the certificate and the shares represented thereby against all the world. The essence of the Act may be said to centre about Section 8 which provides:

'Although the transfer of a certificate or of shares represented thereby has been rescinded or set aside, nevertheless, if the transferee has possession of the certificate or of a new certificate representing part or the whole of the same shares of stock, a subsequent transfer of such certificates by the transferee, mediately or immediately, to a purchaser for value in good faith, without notice of any facts making the transfer wrongful, shall give such purchaser an

indefeasible right to the certificate and the shares represented thereby.' ”

Mr. James then calls attention to the fact that Section 1 enforces the principle of negotiability by providing that a *bona fide* purchaser for value of a duly endorsed certificate and the shares represented thereby shall be protected, notwithstanding the fact that the charter or by-laws of the corporation itself provide that the shares represented by the certificate shall be transferable only on the books of the corporation, and he shows further that the other provisions of the Act are necessary corollaries to the Eighth Section.

By Section 9 the purchaser for value of an unendorsed certificate is given the right to compel endorsement. The common law is changed by the provision in Section 16, that an alteration, whether made with or without fraudulent intent, gives the *bona fide* purchaser for value the right to enforce the certificate according to its terms before the alteration was made.

Section 13 provides that no attachment or levy shall be valid unless the certificate representing the shares shall be actually seized or surrendered or its transfer enjoined; that unless the certificate is actually seized or its transfer enjoined, the creditor is remitted to a proceeding in equity, and as a result a *bona fide* purchaser for value of a duly endorsed certificate of stock is protected against a secret levy on the stock and the service of process upon the corporation. It is thought that the corporation is fully protected by a provision giving it the right to recognize the registered holder as the sole owner so far as relates to the right to vote and the payment of dividends.

Section 17 provides a remedy by Court proceedings for the issue of new certificates.

The same definition of value is given in this Act as in the other Commercial Acts, viz: “Value is any consideration sufficient to support a simple contract; an antecedent

or pre-existing obligation whether for money or not, constitutes value where a certificate is taken either in satisfaction thereof or as security therefor." Objection to this definition of value has been made in certain quarters, but the rule adopted by the Conference of Commissioners is that supported by the weight of authority. It was laid down by the Supreme Court of the United States in the case of *Swift vs. Tyson*, in 1842, *1 Peters'*, and, excepting in New York State Courts, has been accepted by the great majority of the tribunals wherever the common law is administered.

In pursuance of their purpose to obtain uniformity, the Conference of Commissioners has adopted the weight of authority wherever authorities have differed, and it is confidently believed that the adoption of the Act under consideration will prove a boon to the business community.

The draftsman of the Act was Professor Samuel Williston, of the Harvard Law School, who submitted his first tentative draft to the Committee at their meeting in Portland, Me., on August 21, 1907. It was considered at the session of the Commissioners at the same place during that month. A second tentative draft was considered by the Committee and Commissioners at their session at Seattle, Wash., in August, 1908, and a third tentative draft by the Committee in New York City in April, 1909. A fourth tentative draft was exhaustively discussed by the Committee and the Conference at their meeting in 1909. It comes before the profession and the public now after every provision has been scanned with the utmost scrutiny and, as far as human wisdom can make it, it may be considered a thoroughly consistent Act.

#### UNIFORM BILLS OF LADING ACT

This Act also was drafted by Professor Williston and has been under consideration in committee and before the Conference since August 23, 1906, five separate drafts having been prepared and meetings of the Committee having

been held at St. Paul, Philadelphia, Portland, Me., New York and Detroit, attended from time to time by representatives of the American Bankers' Association, the National Association of Manufacturers, the American Warehousemen's Association, the National Board of Trade, the National Association of Credit Men, counsel for the Michigan Central Railroad, the Pennsylvania Railroad, the New York, New Haven and Hartford Railroad, the Chesapeake and Ohio Railroad, and the Colorado and Southern Railroad, the Bills of Lading Committee of Railroads in Official Territory, the National Industrial Traffic League, and representatives of the Harvard Law School and the Law Schools of Columbia University and the University of Pennsylvania.

The whole subject of Bills of Lading was taken up on the 13th of September, 1909, at a conference on that subject held at the Auditorium Hotel, in Chicago, composed of representatives of very many important industries and interests. The Conference unanimously endorsed the Act. Francis B. James, Esq., in explaining the Act, pointed out to the Conference the general principles that had governed the Conference considering this subject, saying in part:

"It was necessary for the Committee on Commercial Law and the Commission to determine, in the first place, in dealing with the subject of Bills of Lading and formulating a measure, just what was the Law of Bills of Lading. It was first decided that the law of bills of lading was not the law of carriers. The law of carriers defines the relative rights and duties of shipper and carrier, and is fixed by the common law, except as modified by statute. The conditions which you find upon the back of bills of lading do not pertain to the law of bills of lading, but to modifications of the law of carriers as affecting the relations between shipper and carrier. \* \* \* The Commissioners \* \* \* in formulating this uniform act upon bills of lading have dealt with the bill of lading primarily as a document of title or a piece of commercial paper. They have dealt with it only secondly \* \* \* as defining the relations of shipper and carrier in so far as it directly bore upon it as a document of title or a piece of commercial paper. \* \* \*

It provides that this document of title may be of two kinds—the 'straight' bill of lading and the 'order' bill of lading. Aided by Prof. Williston, the Committee on Commercial Law took up a consideration of the following subjects in formulating this measure: the general principles underlying the law merchant; the actual customs and usages of to-day in respect to bills of lading as pieces of commercial paper; fragmentary State legislation in which efforts had been made to put the law of bills of lading upon a modern and up-to-date footing; judicial decisions which misconstrued and abrogated this legislation; that the order bill of lading was used largely in the movement of staple commodities; the foreign law upon the subject; what had been said on the subject by economic writers; the physical transportation of staple commodities as well as manufactured articles; this form of document of title as a piece of commercial paper in its relation to the whole credit system, the currency and the banking facilities of the country."

Mr. James then quotes from the work of Mr. Logan McPherson, entitled "Railroad Freight Rates in Relation to the Commerce and Industry of the United States," published in May, 1909, where the basic principles of the Act are set forth (p. 190). Mr. McPherson points out that the "order" bill of lading is an instrument for facilitating commerce of the greatest importance; that

"It is not only a certificate that merchandise is in transit, but a first lien upon that merchandise, in a way a title to ownership, and, as fulfilling this function, negotiable. For example, a grain dealer buying a carload of wheat at the Western field may, and in the vast majority of cases does, deposit the bill of lading covering that car in a bank as security for a loan to its value. If that car goes through to a port where it is sold for export the loan may not be paid and the bill of lading lifted until the grain is transferred from the car to the vessel. There is a similar procedure in the case of other commodities, with bills of lading covering raw material to the factory and finished product from the factory. The order bill of lading thus contributes to that fluidity of the circulating medium, that celerity in the transfer of merchandise, which are striking achievements and essential requirements of current civilization."

It is then pointed out that the essence of the Act may be said to centre about Section 31, which reads as follows:

"A negotiable bill may be negotiated by any person in possession of the same, however such possession may have been acquired, if by the terms of the bill the carrier undertakes to deliver the goods to the order of such person or if at the time of negotiation the bill is in such form that it may be negotiated by delivery."

It will be seen that this section places the "order" bill of lading upon the precise basis of negotiability as a promissory note, check, draft or bill of exchange, and, as Mr. James points out, the other provisions are necessary corollaries of this section.

He shows that by Section 24 in case an "order" bill of lading is issued there shall be no attachment of the goods. That by Section 26 there shall be no lien claimed except for freight charges, storage, demurrage and terminal charges and the necessary preservation of the goods, unless the same is endorsed upon the bill itself. But while goods are free from attachments and other liens, vested rights of property are protected. Thus Section 42 provides that nothing shall limit the rights and remedies of a mortgagee or lienholder whose mortgage or lien on goods would be valid, apart from this Act, as against one who for value and in good faith purchased from the owner, immediately prior to the time of their delivery to the carrier, the goods which are subject to the mortgage or lien; the object of this section is to make it perfectly clear that nothing in the Act is intended to be subversive of laws governing chattel mortgages and liens on goods prior to the time of their delivery to the carrier.

Provision is made for possible mistakes by requiring non-negotiable bills to be stamped accordingly; also in the case of lost or destroyed bills. Frauds are guarded against by requiring duplicate bills to be properly marked, and, in the case of alteration or erasure, the bill may be enforced according to its original provisions.



Section 14 provides that if a carrier delivers goods for which a bill has been issued, the negotiation of which would transfer the right to the possession of the goods, and fails to cancel the bill, the carrier shall be liable to any one who in good faith purchases the same:

Section 15 provides that in case of a delivery order the fact of delivery shall be marked upon the bill.

Section 23 makes an important change in the law as affecting the liability of a carrier for non-receipt or misdescription of the goods, embodying the principle that if a bill of lading has been issued by a carrier or on his behalf by an agent or employee, the scope of whose actual or apparent authority includes the issuing of bills of lading, the carrier shall be bound.

All of these provisions together with the definition of value, which is the same as in the other Commercial Acts, to wit, "Any consideration sufficient to support a simple contract," sustain and enforce the intention to make bills of lading fully negotiable. Mr. James says:

"By this Act an 'order' bill of lading is recognized as part of the currency of commerce, a piece of commercial paper, passing freely from hand to hand, so that a man may discharge his debt with a bill of lading as well as with cash, either in his relations to his banker or any other creditor. This is peculiarly apparent when we realize the fact that in a great bulk of cases—especially in moving the great staple commodities—an 'order' bill of lading is usually accompanied by a draft, the bill of lading giving the unit of quantity, the draft the unit of value,—one being the necessary complement of the other."

Mr. James then quotes from Mr. Prendergast's book on "Credit and Its Uses," wherein promissory notes, drafts, checks, bills of lading and warehouse receipts are classified as credit instruments which can be used as mediums of exchange and substitutes for money.

To meet the objection of those who fear that the adoption of a codification of the law of bills of lading will pre-

vent the growth of new customs and give too great efficacy to existing principles and actual commercial practices, Section 52 of the Act provides:

"This Act shall be so interpreted and construed as to effectuate its general purpose to make uniform the laws of those States which enact it."

By Section 51 it is enacted that

"In any case not provided for in this Act, the rules of law and equity, including the law merchant, shall govern."

The Bills of Lading Act has been adopted in the States of Massachusetts and Maryland. It is hoped it will commend itself to the Legislatures of the States holding their sessions during the coming year.

#### THE NATIONAL CIVIC FEDERATION

The cause of uniformity was brought very prominently before the attention of the American people during the past winter by reason of the assembly of the Conference called under the auspices of the National Civic Federation, in Washington on the 17th of January. It so happened that the Governors of thirty-one States and Territories were meeting in conference at the same time and many of them listened to the papers read before the Conference. The Chairman of the Committee on Resolutions submitted the conclusions of the Conference to the Governors and thereby impressed the importance of the movement for uniformity with special force. The President of the Conference of Commissioners on Uniform State Laws was invited to give an outline of its work and it is gratifying to state that all of the Commercial Acts, as well as the Uniform Divorce Act, received the approval of the Conference, excepting the Act relating to Transfer of Stock, which was held for further consideration.

A very important resolution adopted by this body was as follows:

## UNIFORM AMENDMENTS

*"Resolved, That, if any persons or organizations, after studying the laws submitted by the Conference on Uniform State Laws, think that any of them need amendment, such persons and organizations be earnestly urged to try to bring about such amendment through the National Conference of Commissioners on Uniform State Laws, to the end that, even in amendment, uniformity may be preserved."*

The delegates to the Conference thus held under the auspices of the National Civic Federation numbered about five hundred men and women, coming from all parts of the United States. They expressed their approval of the work of the Conference of Commissioners on Uniform State Laws and appealed for its support in the following resolutions:

*"Resolved, That this National Conference on Uniform Laws advise the Governors of the States now in session at Washington that it endorse the Acts prepared under the direction of and recommended by the Commissioners on Uniform Laws as stated below, and that this body hopes that the States which have not already done so will without delay enact these measures into law, viz:*

The Negotiable Instruments Act.  
The Warehouse Receipts Act.  
The Sales Act.  
The Bill of Lading Act.  
The Uniform Divorce Act."

*"Resolved, That every State and Territory which has made no appropriation for the work of the Commissioners on Uniform State Laws be urged to make suitable appropriations annually for the efficient conduct of that work."*

*"Resolved, That the States and Territories which have not already appointed Commissioners on Uniform State Laws be urged to appoint such Commissioners as soon as practicable."*

It will be seen from the foregoing that the cause of uniform State legislation is rapidly gaining the confidence of the public, irrespective of political considerations, and the constant approval of the American Bar Association, the

Pennsylvania Bar Association and similar organizations of lawyers has already produced valuable results, and that there are the best prospects for further successful work.

Up to the present time the Negotiable Instruments Act has been adopted in thirty-eight States and Territories; the Warehouse Receipts Act in nineteen States and Territories; the Uniform Sales Act in seven States and Territories; the Uniform Stock Transfer Act in two States; the Uniform Bills of Lading Act in two States and the Uniform Divorce Act in three States.

Your Committee therefore recommends the adoption of the following resolutions:

1. "*Resolved*, That this Association approves the draft of an Act prepared under the direction and recommended by the Conference of Commissioners on Uniform State Laws in national conference, entitled 'An Act to make Uniform the Transfer of Shares of Stock in Corporations.'"

2. "*Resolved*, That this Association approves the draft of an Act prepared under the direction and recommended by the Conference of Commissioners on Uniform State Laws in national conference, entitled 'An Act to make Uniform the Law of Bills of Lading.'"

3. "*Resolved*, That the Legislature and Governor of Pennsylvania be respectfully urged to adopt and approve both of the foregoing Acts."

In addition thereto your Committee recommends the adoption of the following resolution:

"*Resolved*, That this Association cordially approves the recommendations of the Conference held under the auspices of the National Civic Federation at Washington, on January 17, 1910, in relation to Uniform Amendments, as follows:

'*Resolved*, That, if any person or organizations, after studying the laws submitted by the Conference on Uniform State Laws, think that any of them need amendment, such persons and organizations be earnestly urged to try to bring about such amendment through the National Conference of Commissioners on Uniform State Laws, to the end that, even in amendment, uniformity may be preserved.'

and commends the same to the Legislature and Governor of this Commonwealth."

Respectfully submitted,

WALTER GEORGE SMITH,  
WILLIAM D. CROCKER,  
ISAAC HIESTER,

*Committee.*

## APPENDIX

### AN ACT TO MAKE UNIFORM THE LAW OF TRANSFER OF SHARES OF STOCK IN CORPORATIONS

Be it enacted, etc., as follows:

**SECTION 1.**—*How title to certificates and shares may be transferred.* Title to a certificate and to the shares represented thereby can be transferred only,

(a) By delivery of the certificate indorsed either in blank or to a specified person by the person appearing by the certificate to be the owner of the shares represented thereby, or

(b) By delivery of the certificate and a separate document containing a written assignment of the certificate or a power of attorney to sell, assign, or transfer the same or the shares represented thereby, signed by the person appearing by the certificate to be owner of the shares represented thereby. Such assignment or power of attorney may be either in blank or to a specified person.

The provisions of this section shall be applicable although the charter or articles of incorporation or code of regulations or by-laws of the corporation issuing the certificate and the certificate itself, provide that the shares represented thereby shall be transferable only on the books of the corporation or shall be registered by a registrar or transferred by a transfer agent.

The provisions of this section are in accordance with the existing law (see Cook on Corporations, Section 373, *et seq.*), except that the transfer of the certificate is here made to operate as a transfer of the shares, whereas at common law it is the registry on the books of the company which makes the complete transfer. The reason for the change is in order that the certificate may, to the fullest extent possible, be the representative of the shares. This is the fundamental purpose of the whole act, and is in accordance with the mercantile usage. The transfer on the books of the corporation becomes thus like the record of a deed of real estate under a registry system.

SEC. 2.—*Powers of those lacking full legal capacity and of fiduciaries not enlarged.* Nothing in this Act shall be construed as enlarging the powers of an infant or other person lacking full legal capacity, or of a trustee, executor or administrator, or other fiduciary, to make a valid indorsement, assignment or power of attorney.

This section is inserted for the sake of avoiding any possible question as to the matter to which it relates.

SEC. 3.—*Corporation not forbidden to treat registered holder as owner.* Nothing in this Act shall be construed as forbidding a corporation,

(a) To recognize the exclusive right of a person registered on its books as the owner of shares to receive dividends, and to vote as such owner, or

(b) To hold liable for calls and assessments a person registered on its books as the owner of shares.

This provision is necessary for the protection of the corporation.

SEC. 4.—*Title derived from certificate extinguishes title derived from a separate document.* The title of a transferee of a certificate under a power of attorney or assignment not written upon the certificate, and the title of any person claiming under such transferee, shall cease and determine if, at any time prior to the surrender of the certificate to the corporation issuing it, another person, for value in good faith, and without notice of the prior transfer, shall purchase and obtain delivery of such certificate with the indorsement of the person appearing by the certificate to be the owner thereof, or shall purchase and obtain delivery of such certificate and the written assignment or power of attorney of such person, though contained in a separate document.

The case here contemplated arises where a transferee obtains a certificate with a separate assignment or power of attorney. If the certificate is not delivered, and a mere assignment is made, title to the certificate will not pass under Section 1. There will be, in effect, merely a contract to transfer under Section 10. Even though the certificate is delivered, and therefore the transferee obtains title by the separate assignment, it seems proper that the transferee should, at his peril, keep the certificate from deceiving purchasers who may by any chance thereafter obtain it duly indorsed or assigned by the person appearing on the face of it, to be the owner. As the first purchaser can immediately get a certificate in his own name, he has an easy way to protect himself from mischance.

SEC. 5.—*Who may deliver a certificate.* The delivery of a certificate to transfer title in accordance with the provisions of

Section 1, is effectual, except as provided in Section 7, though made by one having no right of possession and having no authority from the owner of the certificate or from the person purporting to transfer the title.

This section gives full negotiability to certificates of stock. In so doing it goes beyond the existing law, but is in accordance with mercantile custom. In many cases a similar result has been reached on the theory of estoppel if the real owner's negligence contributed to the theft or unauthorized dealing with an indorsed certificate. See Cook on Corporations, c. XXI; also § 437.

**SEC. 6.**—*Indorsement effectual in spite of fraud, duress, mistake, revocation, death, incapacity or lack of consideration or authority.* The indorsement of a certificate by the person appearing by the certificate to be the owner of the shares represented thereby is effectual, except as provided in Section 7, though the indorser or transferor,

(a) was induced by fraud, duress or mistake, to make the indorsement or delivery, or

(b) has revoked the delivery of the certificate, or the authority given by the indorsement or delivery of the certificate, or

(c) has died or become legally incapacitated after the indorsement, whether before or after the delivery of the certificate, or

(d) has received no consideration.

By the previous section, if the certificate is properly indorsed, the delivery may be made by any one; by the present section, the indorsement, if genuine, is sufficient, in spite of the circumstances enumerated.

So far as sub-section (a) is concerned, this section states the existing law. Cook on Corporations, §§ 349, 438. So far as subsections (b) and (c) are concerned, there is a dearth of authority. Doubtless a revocation by death, or otherwise, subsequent to the creation of an interest for value in the stock, would be generally held ineffectual. Lowell on the Transfer of Stock, §§ 44, 42; Dickinson v. Central Bank, 129 Mass. 279; Hess v. Rau, 95 N. Y. 359. Probably, too, if the possession of an indorsed certificate of stock were intrusted to another for the purpose of sale, subsequent revocation of the power to sell, or even death of the owner would not invalidate the title of a purchaser from the person so intrusted. The doctrine of estoppel would probably be invoked. The case may be supposed, however, of a certificate indorsed during the lifetime, but not delivered until after the death of the owner. It is probable that the existing law would hold such an indorsement ineffectual, yet a purchaser without notice should, it seems, be protected.

**SEC. 7.**—*Rescission of transfer.* If the indorsement or delivery of a certificate,

(a) was procured by fraud or duress, or

(b) was made under such mistake as to make the indorsement or delivery inequitable; or

If the delivery of a certificate was made

(c) without authority from the owner, or

(d) after the owner's death or legal incapacity, the possession of the certificate may be reclaimed and the transfer thereof rescinded, unless:

(1) The certificate has been transferred to a purchaser for value in good faith without notice of any facts making the transfer wrongful, or,

(2) The injured person has elected to waive the injury, or has been guilty of *laches* in endeavoring to enforce his rights.

Any court of appropriate jurisdiction may enforce specifically such right to reclaim the possession of the certificate or to rescind the transfer thereof and, pending litigation, may enjoin the further transfer of the certificate or impound it.

Though a purchaser for value gets title under the circumstances detailed in section 6, no title should be valid against the original owner unless a purchaser for value has acquired the certificate. See Cook, § 356.

**SEC. 8.—*Rescission of transfer of certificate does not invalidate subsequent transfer by transferee in possession.***—Although the transfer of a certificate or of shares represented thereby has been rescinded or set aside, nevertheless, if the transferee has possession of the certificate or of a new certificate representing part or the whole of the same shares of stock, a subsequent transfer of such certificate by the transferee, mediately or immediately, to a purchaser for value in good faith, without notice of any facts making the transfer wrongful, shall give such purchaser an indefeasible right to the certificate and the shares represented thereby.

This section is based on the same reasoning as Section 4. Section 4, indeed, would perhaps cover the case provided for in Section 8, if no new certificates had been taken out.

**SEC. 9.—*Delivery of undorsed certificate imposes obligation to indorse.*** The delivery of a certificate by the person appearing by the certificate to be the owner thereof without the indorsement requisite for the transfer of the certificate and the shares represented thereby, but with intent to transfer such certificate or shares shall impose an obligation, in the absence of an agreement to the contrary, upon the person so delivering, to complete the transfer by making the necessary indorsement. The transfer shall take effect as of the time when the indorsement is actually made. This obligation may be specifically enforced.



This section follows the rule established as to negotiable instruments by Section 79, Negotiable Instruments Law, and in regard to Warehouse receipts, by Section 43 of the Warehouse Receipts Act. It probably expresses the existing law. See Cook, § 465.

SEC. 10.—*Ineffectual attempt to transfer amounts to a promise to transfer.* An attempted transfer of title to a certificate or to the shares represented thereby without delivery of the certificate shall have the effect of a promise to transfer and the obligation, if any, imposed by such promise shall be determined by the law governing the formation and performance of contracts.

It is a general principle of the Law of Sales that when a seller undertakes to sell property to which for any reason he cannot transfer title immediately, the attempted sale implies an obligation on the part of the seller to transfer title thereafter. *Lunn v. Thornton*, 1 C. B. 379; *Bates v. Smith*, 83 Mich. 347; Sales Act, Section 5 (3).

SEC. 11.—*Warranties on sale of certificate.* A person who for value transfers a certificate, including one who assigns for value a claim secured by a certificate, unless a contrary intention appears, warrants—

- (a) That the certificate is genuine,
- (b) That he has a legal right to transfer it, and
- (c) That he has no knowledge of any fact which would impair the validity of the certificate.

In the case of an assignment of a claim secured by a certificate, the liability of the assignor upon such warranty shall not exceed the amount of the claim.

The section following Section 44 of the Warehouse Receipts Act, and Section 35 of the Bills of Lading Act, which were adapted from the Negotiable Instruments Law. There seems no reason why the implied warranties in case of a sale of certificates of stock should not be the same as in the case of negotiable paper. This perhaps goes beyond the existing law but seems to conform to the tendency of the law of implied warranty. See Cook, § 296.

SEC. 12. *No warranty implied from accepting payment of a debt.* A mortgagee, pledgee, or other holder for security of a certificate who in good faith demands or receives payment of the debt for which such certificate is security, whether from a party to a draft drawn for such debt, or from any other person, shall not by so doing be deemed to represent or to warrant the genuineness of such certificate, or the value of the shares represented thereby.

The point covered by this section has not been raised in litigation on certificates of stock. It has been, however, frequently raised when bills of lading

have been used as security. For this reason a section similar to that here presented has been inserted both in the Draft Act on Bills of Lading, and the Act on Warehouse Receipts. As the same question may arise in regard to certificates of stock it was thought best to cover the point.

**SEC. 13.** *No attachment or levy upon shares unless certificate surrendered or transfer enjoined.* No attachment or levy upon shares of stock for which a certificate is outstanding shall be valid until such certificate be actually seized by the officer making the attachment or levy, or be surrendered to the corporation which issued it, or its transfer by the holder be enjoined. Except where a certificate is lost or destroyed, such corporation shall not be compelled to issue a new certificate for the stock until the old certificate is surrendered to it.

This section, like the similar provision in the Warehouse Receipts Act, and the Sales Act, is an advance upon existing law. It is an advance which seems even more necessary in regard to the certificates of stock than in the case of bills of lading or warehouse receipts. Common law does not universally protect the purchaser of a stock certificate against attachment on the books of the company, even though the transfer of the certificate preceded the attachment. *Cook, § 487, et seq.* By statute, in Massachusetts one who attaches stock on the books of a corporation prior to a sale of the certificate, is postponed to even a subsequent purchaser. *Clews v. Friedman*, 180 Mass. 556. There is obviously chance for the greatest fraud if this is not so. Yet if the subsequent purchaser is preferred, it is clearly improper ever to allow an attachment of stock unless some method is adopted to prevent a subsequent transfer of the certificate. Otherwise it is impossible to realize on the attached property since there would always be a possibility of a subsequent transfer of the original certificate.

**SEC. 14.**—*Creditor's remedies to reach certificate.* A creditor whose debtor is the owner of a certificate shall be entitled to such aid from Courts of appropriate jurisdiction, by injunction and otherwise, in attaching such certificate or in satisfying the claim by means thereof as is allowed at law or in equity, in regard to property which can not be readily attached or levied upon by ordinary legal process.

As in the Sales Act, and Warehouse Receipts Act, it seems essential to provide creditors with the fullest possible means of reaching the negotiable documents which their debtor has, since the creditor is deprived of other methods of realizing on the property represented by the document.

**SEC. 15.**—*There shall be no lien or restriction unless indicated on certificate.* There shall be no lien in favor of a corporation upon the shares represented by a certificate issued by such corporation and there shall be no restriction upon the transfer of shares so represented by virtue of any by-law of such corporation, or otherwise, unless the right of the corporation to such lien or the restriction is stated upon the certificate.

This is in pursuance of the general policy of this Act to make certificates of stock so far as possible the sole representatives of the shares which they represent.

SEC. 16.—*Alteration of certificate does not divest title to shares.* The alteration of a certificate, whether fraudulent or not and by whomsoever made, shall not deprive the owner of his title to the certificate and the shares originally represented thereby, and the transfer of such a certificate shall convey to the transferee a good title to such certificate and to the shares originally represented thereby.

Where the law makes title to shares of stock depend upon the registry in the books of the company, alteration of the certificate obviously cannot destroy title. But if the certificate is itself to be the muniment of title, a provision seems necessary. Even for fraudulent alteration, forfeiture of the stock represented by the certificate, seems too severe a penalty.

SEC. 17.—*Lost or destroyed certificate.* Where a certificate has been lost or destroyed, a Court of competent jurisdiction may order the issue of a new certificate therefor on service of process upon the corporation and on reasonable notice by publication, and in any other way which the Court may direct, to all persons interested, and upon satisfactory proof of such loss or destruction and upon the giving of a bond with sufficient surety to be approved by the Court to protect the corporation or any person injured by the issue of the new certificate from any liability or expense, which it or they may incur by reason of the original certificate remaining outstanding. The Court may also in its discretion order the payment of the corporation's reasonable costs and counsel fees.

The issue of a new certificate under an order of the Court as provided in this section, shall not relieve the corporation from liability in damages to a person to whom the original certificate has been or shall be transferred for value without notice of the proceedings or of the issuance of the new certificate.

This section represents the prevailing rule. Cook, §§ 359, 403.

SEC. 18.—*Rule for cases not provided for by this Act.* In any case not provided for by this Act, the rules of law and equity, including the law merchant, and in particular the rules relating to the law of principal and agent, executors, administrators and trustees, and to the effect of fraud, misrepresentation, duress or coercion, mistake, bankruptcy, or other invalidating cause, shall govern.

A similar provision is commonly inserted when an attempt is made to reduce to statutory form a topic of the law, as in the Negotiable Instruments Act, the Sales Act and the Warehouse Receipts Act.

**SEC. 19.**—*Interpretation shall give effect to purpose of uniformity.* This Act shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those States which enact it.

This section is contained in the Sales Act and Warehouse Receipts Act in order to induce Courts, so far as possible, to consider the object of uniformity.

Although the Negotiable Instruments Act does not contain this section yet the Courts of last resort have rightly applied this rule. See Brannan on Negotiable Instruments Law (1908), page 1, note 2, and cases there cited.

**SEC. 20.**—*Definition of indorsement.* A certificate is indorsed when an assignment or a power of attorney to sell, assign, or transfer the certificate or the shares represented thereby is written on the certificate and signed by the person appearing by the certificate to be the owner of the shares represented thereby, or when the signature of such person is written without more upon the back of the certificate. In any of such cases a certificate is indorsed though it has not been delivered.

**SEC. 21.**—*Definition of person appearing to be the owner of certificate.* The person to whom a certificate was originally issued is the person appearing by the certificate to be the owner thereof, and of the shares represented thereby, until and unless he indorses the certificate to another specified person, and thereupon such other specified person is the person appearing by the certificate to be the owner thereof until and unless he also indorses the certificate to another specified person. Subsequent special indorsements may be made with like effect.

**SEC. 22.**—*Other definitions.* (1) In this Act unless the context or subject matter otherwise requires—

“Certificate” means a certificate of stock in a corporation organized under the laws of this State or of another State whose laws are consistent with this Act.

“Delivery” means voluntary transfer of possession from one person to another.

“Person” includes a corporation or partnership or two or more persons having a joint or common interest.

To “purchase” includes to take as mortgagee or as pledgee.

“Purchaser” includes mortgagee and pledgee.

"Shares" means a share or shares of stock in a corporation organized under the laws of this State or of another State whose laws are consistent with this Act.

"State" includes State, Territory, District and Insular Possession of the United States.

"Transfer" means transfer of legal title.

"Title" means legal title and does not include a merely equitable or beneficial ownership or interest.

"Value" is any consideration sufficient to support a simple contract. An antecedent or pre-existing obligation, whether for money or not, constitutes value where a certificate is taken either in satisfaction thereof or as security therefor.

(2) A thing is done "in good faith" within the meaning of this Act, when it is in fact done honestly, whether it be done negligently or not.

A few only of these definitions require comment. As to the definition of a certificate and of a share, it should be said that it seems impossible for a State to make effectual enactment as to the nature and effect of certificates for shares, issued by corporations chartered in other States, unless such States have a similar Act. The definitions of "value" and "good faith" follow the definitions which have been made in previous laws recommended by the Conference of Commissioners on Uniform Laws. The same reasons that recommended the definitions in previous enactments are applicable here also.

SEC. 23.—*Act does not apply to existing certificates.* The provisions of this Act apply only to certificates issued after the taking effect of this Act.

Unlike bills and notes, warehouse receipts and bills of lading, certificates of stock not only may be but very frequently are held for many years without transfer. It might therefore be desirable to make the Act apply to existing certificates; but this would probably be unconstitutional. The date of the certificate will give the purchaser evidence of the applicability of this Act.

SEC. 24.—*Inconsistent legislation repealed.* All Acts or parts of Acts inconsistent with this Act are hereby repealed.

SEC. 25.—*Time when the Act takes effect.* This Act shall take effect on the.....day of....., one thousand nine hundred and.....

SEC. 26.—*Name of Act.* This Act may be cited as the Uniform Stock Transfer Act.

## AN ACT TO MAKE UNIFORM THE LAW OF BILLS OF LADING

Be it enacted, etc., as follows:

## PART I

## THE ISSUE OF BILLS OF LADING

SECTION 1.—*Bills governed by this Act.* Bills of Lading issued by any common carrier shall be governed by this Act.

SEC. 2.—*Form of Bills. Essential terms.* Every bill must embody within its written or printed terms—

- (a) The date of its issue,
- (b) The name of the person from whom the goods have been received,
- (c) The place where the goods have been received,
- (d) The place to which the goods are to be transported,
- (e) A statement whether the goods received will be delivered to a specified person, or to the order of a specified person,
- (f) A description of the goods or of the packages containing them which may, however, be in such general terms as are referred to in Section 23, and
- (g) The signature of the carrier.

A negotiable bill shall have the words "order of" printed thereon immediately before the name of the person upon whose order the goods received are deliverable.

A carrier shall be liable to any person injured thereby for the damage caused by the omission from a negotiable bill of any of the provisions required in this section.

The provisions of this section are in accordance with business usage. The requirement of printing the words "order of" before the consignee's name is especially desirable in order to prevent the alteration of straight bills into negotiable bills. The only other provision of the section on which comment has been made is (f). The second clause in (f) has been added in this draft to meet objections made by representatives of the carriers.

Though it is desirable that all bills of lading shall conform to the rules here laid down, the essential point is that negotiable bills shall do so, and as to them only is a sanction imposed for failing to insert the terms required by the bill.

SEC. 3.—*Form of bills. What terms may be inserted.* A carrier may insert in a bill, issued by him, any other terms and conditions, provided that such terms and conditions shall not—

(a) Be contrary to law or public policy, or

(b) In any wise impair his obligation to exercise at least that degree of care in the transportation and safe-keeping of the goods entrusted to him which a reasonably careful man would exercise in regard to similar goods of his own.

Much litigation has arisen over the point involved in 3 (b). The provision as drawn is in accordance with the weight of authority (6 Cyc. of Law 393) and is similar to the corresponding section of the Warehouse Receipts Act.

SEC. 4.—*Definition of non-negotiable or straight bill.* A bill in which it is stated that the goods are consigned or destined to a specified person, is a non-negotiable or straight bill.

See note to the following section.

SEC. 5.—*Definition of negotiable or order bill.* A bill in which it is stated that the goods are consigned or destined to the order of any person named in such bill, is a negotiable or order bill.

Any provision in such a bill that it is non-negotiable shall not affect its negotiability within the meaning of this Act.

This Act makes a fundamental distinction throughout, between negotiable and non-negotiable bills. The former are the negotiable representatives of the goods, the latter merely evidence of the contract between the shipper and carrier. This distinction is clearly recognized in mercantile usage and by much legislation. To some extent it is also recognized by the Courts independently of legislation. Negotiable bills are frequently called "order" bills.

SEC. 6.—*Negotiable bills must not be issued in sets.* Negotiable bills issued in this State for the transportation of goods to any place in the United States on the continent of North America, except Alaska, shall not be issued in parts or sets.

If so issued the carrier issuing them shall be liable for failure to deliver the goods described therein to any one who purchases a part for value in good faith, even though the purchase be after the delivery of the goods by the carrier to a holder of one of the other parts.

The issue of bills of lading in parts has often been condemned. It is a direct invitation to fraud in the case of negotiable bills, for one part is as much an original as another. Moreover, it is impossible to guard against the fraud, for it has been held that one who has contracted to buy goods and pay the price on transfer of the bill of lading must pay on having one of a set tendered him.

He can not demand all (*Saunders v. McLean*, 11 Q. B. D. 327), though by so doing alone can he be protected, for the carrier may deliver without liability to the holder who first presents a part. *Glynn v. Dock Co.*, 7 App. Cas. 591.

Owing to the fixed practice of international carriers in regard to this matter, it has been thought more conservative to confine the requirements of this section to carriage within the United States.

**SEC. 7.—Duplicate negotiable bills must be so marked.** When more than one negotiable bill is issued in this State for the same goods to be transported to any place in the United States on the continent of North America, except Alaska, the word "duplicate" or some other word or words indicating that the document is not an original bill shall be placed plainly upon the face of every such bill, except the one first issued. A carrier shall be liable for the damage caused by his failure so to do to any one who has purchased the bill for value in good faith as an original, even though the purchase be after the delivery of the goods by the carrier to the holder of the original bill.

The use of duplicate bills is common, and it is obvious that they should be so marked to avoid fraud or mistake. See *Midland Bank v. Mo. Pac. Ry.*, 132 Mo. 492.

**SEC. 8.—Non-negotiable bills shall be so marked.** A non-negotiable bill shall have placed plainly upon its face by the carrier issuing it "non-negotiable" or "not negotiable."

This section shall not apply, however, to memoranda or acknowledgments of an informal character.

By the statutes of several States the carrier must require the surrender of all bills except those marked "not negotiable."

It seems desirable that a bill of lading should indicate very clearly on its face whether it is a negotiable or non-negotiable bill, in view of the marked differences in the legal effect of the two documents. Section 50 provides a criminal penalty for failure to observe this requirement.

**SEC. 9.—Insertion of name of person to be notified.** The insertion in a negotiable bill of the name of a person to be notified of the arrival of the goods shall not limit the negotiability of the bill, or constitute notice to a purchaser thereof of any rights or equities of such person in the goods.

This section is adopted with slight changes in wording from House Bill 15,846 of the 1st session of the 59th Congress. The practice is common for a shipper of goods to take a bill to his own order that he may obtain the discount of a draft for the price, inserting also in the bill a request that the carrier notify the prospective buyer of the arrival of the goods, so that the latter may promptly pay the price, get the bill of lading, and remove the goods. Banks sometimes fear to discount a draft for the consignor when such a provision is inserted, questioning whether the prospective purchaser of the goods may not have a better right than one who buys the bill of lading either outright or as security.



As the person to be notified may not have even a contract right against the consignor, it seems best to remove any doubt as to the rights of one who purchases or lends money on such a bill.

SEC. 10.—*Acceptance of bill indicates assent to its terms.* Except as otherwise provided in this Act, where a consignor receives a bill and makes no objection to its terms or conditions at the time he receives it, neither the consignor nor any person who accepts delivery of the goods, nor any person who seeks to enforce any provision of the bill, shall be allowed to deny that he is bound by such terms and conditions, so far as they are not contrary to law or public policy.

This section deals with a question upon which there has been much litigation, and expresses the weight of authority, though there are many contrary decisions.

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## PART II

### OBLIGATIONS AND RIGHTS OF CARRIERS UPON THEIR BILLS OF LADING

SEC. 11.—*Obligation of carrier to deliver.* A carrier, in the absence of some lawful excuse, is bound to deliver goods upon a demand made either by the consignee named in the bill for the goods, or if the bill is negotiable, by the holder thereof, if such demand is accompanied by—

(a) An offer in good faith to satisfy the carrier's lawful lien upon the goods,

(b) An offer in good faith to surrender, properly indorsed, the bill which was issued for the goods, if the bill is negotiable, and

(c) A readiness and willingness to sign, when the goods are delivered, an acknowledgment that they have been delivered, if such signature is requested by the carrier.

In case the carrier refuses or fails to deliver the goods in compliance with a demand by the consignee or holder so accompanied, the burden shall be upon the carrier to establish the existence of a lawful excuse for such refusal or failure.

See the definition of holder in Section 53. The requirement of signature to an acknowledgment that the goods have been delivered is perhaps not the law aside from statute, but, as the usage is reasonable, it is adopted.

SEC. 12.—*Justification of carrier in delivering.* A carrier is justified, subject to the provisions of the three following sections, in delivering goods to one who is

(a) A person lawfully entitled to the possession of the goods, or

(b) The consignee named in a non-negotiable bill for the goods, or

(c) A person in possession of a negotiable bill for the goods by the terms of which the goods are deliverable to his order, or which has been indorsed to him or in blank by the consignee or by the mediate or immediate indorsee of the consignee.

This section gives the carrier a justification in some cases where he would not, under the preceding section, be bound to deliver, *e. g.*, if a thief presented a negotiable bill properly indorsed, the carrier would be protected if he delivered the goods innocently.

SEC. 13.—*Carrier's liability for misdelivery.* Where a carrier delivers goods to one who is not lawfully entitled to the possession of them, the carrier shall be liable to any one having a right of property or possession in the goods if he delivered the goods otherwise than as authorized by subdivisions (b) and (c) of the preceding section; and, though he delivered the goods as authorized by either of said subdivisions, he shall be so liable if prior to such delivery he—

(a) Had been requested by or on behalf of a person having a right of property or possession in the goods, not to make such delivery, or

(b) Had information at the time of the delivery that it was to a person not lawfully entitled to the possession of the goods.

A request or information to be effective within the meaning of this section must be given to an officer or agent of the carrier, the actual or apparent scope of whose duties includes action upon such a request or information, and must be given in time to enable the officer or agent to whom it is given, acting with reasonable diligence, to stop delivery of the goods.

This enacts the well-recognized law in regard to misdelivery generally, and also provides for the case where, owing to notice of the rights of others a delivery of the goods to the consignee is wrongful. It is probable that the existing law warrants the whole section.

See *Southern Express Co. v. Dickson*, 94 U. S. 549; 6 Cyc. 468, *et seq.*

SEC. 14.—*Negotiable bills must be cancelled when goods delivered.* Except as provided in Section 27, and except when

compelled by legal process, if a carrier delivers goods for which a negotiable bill had been issued, the negotiation of which would transfer the right to the possession of the goods, and fails to take up and cancel the bill, such carrier shall be liable for failure to deliver the goods to any one who for value and in good faith purchases such bill, whether such purchaser acquired title to the bill before or after the delivery of the goods by the carrier, and notwithstanding delivery was made to the person entitled thereto.

It is an obvious requirement of the mercantile use of negotiable bills of lading that the goods shall remain in the hands of the carrier as long as the bill is outstanding, and statutes similar in effect to this section are in force in some States. See also, as to warehousemen, *Mohun*, 2, 24, 355, 382, 538, 593.

The section does not apply to non-negotiable bills, because usage and mercantile necessity frequently require delivery in such cases without surrender of the receipt. See *Forbes v. Boston & Lowell R. R.*, 133 Mass. 154; *Litchfield Bank v. Elliott*, 83 Minn. 469.

It is necessary to except compulsion by legal process, not only because in one case such compulsion is contemplated by this Act, see Section 43, but also because the compulsion may occur in a State which has not passed the Act.

SEC. 15.—*Negotiable bills must be cancelled or marked when parts of goods delivered.* Except as provided in Section 27, and except when compelled by legal process, if a carrier delivers part of the goods for which a negotiable bill had been issued and fails either—

(a) To take up and cancel the bill, or

(b) To place plainly upon it a statement that a portion of the goods has been delivered, with a description, which may be in general terms, either of the goods or packages that have been so delivered or of the goods or packages which still remain in the carrier's possession, he shall be liable for failure to deliver all the goods specified in the bill, to any one who for value and in good faith purchases it, whether such purchaser acquired title to it before or after the delivery of any portion of the goods by the carrier, and notwithstanding such delivery was made to the person entitled thereto.

This follows in regard to partial deliveries the rule of Section 14.

SEC. 16.—*Altered bills.* Any alteration, addition or erasure in a bill after its issue without authority from the carrier issuing the same either in writing or noted on the bill shall be void, whatever be the nature and purpose of the change, and the bill shall be enforceable according to its original tenor.

Alteration of a document transferring title to property, or indicating ownership, cannot destroy the vested title to the property. *Wald's Pollock* (3d ed.),

p. 845, and cases cited. Accordingly, even though a bill is altered, the goods in the carrier's possession belong to the same person they did before alteration, and though it would be possible to hold that the carrier's only relation to the goods became that of a bailee, bound only to turn over the goods on demand, but not bound to fulfill the contract of carriage, this seems an inconvenient result. No hardship is imposed upon the carrier if he is required to fulfill his obligation to carry the goods to their destination on the terms originally agreed upon.

This section is taken in substance from a condition in the uniform bill of lading assented to by most carriers.

**SEC. 17.—*Lost or destroyed bills.*** Where a negotiable bill has been lost or destroyed, a Court of competent jurisdiction may order the delivery of the goods upon satisfactory proof of such loss or destruction and upon the giving of a bond with sufficient surety to be approved by the Court to protect the carrier or any person injured by such delivery from any liability or loss, incurred by reason of the original bill remaining outstanding. The Court may also in its discretion order the payment of the carrier's reasonable costs and counsel fees.

The delivery of the goods under an order of the Court as provided in this section, shall not relieve the carrier from liability to a person to whom the negotiable bill has been or shall be negotiated for value without notice of the proceedings or of the delivery of the goods.

As in the case of all lost instruments (whether negotiable bills and notes or not) accidental destruction should not relieve the maker or diminish the rights of the holder. Accordingly the holder of a bill should be allowed to compel the delivery of the goods without surrender of the bill. This relief, however, can be given only under equitable conditions. The carrier cannot be required to increase its risk because of the holder's carelessness or accident. Accordingly, a sufficient bond is required. The carrier will still remain liable on the original bill of lading if it should turn up in the hands of a *bona fide* purchaser, under Section 14, but will be able to recoup his liability against the bondsmen. As this draft imposes no penalty upon the carrier for failure to take up a negotiable bill of lading on delivery of the goods, other than making the carrier liable on such a bill which it has not taken up, there is nothing to prevent the carrier from making such arrangement as it deems satisfactory with the holder of a lost or destroyed bill, without requiring the legal proceeding provided for in this section.

**SEC. 18.—*Effect of duplicate bills.*** A bill upon the face of which the word "duplicate" or some other word or words indicating that the document is not an original bill is placed plainly shall impose upon the carrier issuing the same the liability of one who represents and warrants that such bill is an accurate copy of an original bill properly issued but no other liability.

Duplicate bills of lading seem to have been somewhat confused by some Courts, and perhaps by some business men, with bills of lading issued in sets, in which each part is an original. Banks appear sometimes to lend money on duplicate bills, and in *First Bank of Batavia v. Ege*, 109 N. Y. 120, at least the Court

seemed to treat the duplicate as if it were as good as the original. In *Shaw v. United States*, 101 U. S. 557, the duplicate was treated as of no more value than a copy. See also *Midland Bank v. Mo. Pac. Ry. Co.*, 132 Mo. 492.

It is obvious that two separate bills representing the goods cannot be permitted. The duplicate, therefore, must not represent the goods. It should, however, be conclusive upon the carrier that there is an original of the same tenor.

**SEC. 19.—Carrier can not set up title in himself.** No title to goods or right to their possession, asserted by a carrier for his own benefit, shall excuse him from liability for refusing to deliver the goods according to the terms of a bill issued for them, unless such title or right is derived directly or indirectly from a transfer made by the consignor or consignee after the shipment, or from the carrier's lien.

This states the common law as to bailees generally. 3 Am. & Eng. Encyc. of Law, 759.

**SEC. 20.—Interpleader of adverse claimants.** If more than one person claims the title or possession of goods, the carrier may require all known claimants to interplead, either as a defence to an action brought against him for non-delivery of the goods, or as an original suit, whichever is appropriate.

The case of *Crawshaw v. Thornton*, 2 Myl. & C. 1, unfortunately held that interpleader was not a proper remedy in such a case. It is, however, the only adequate remedy, and is probably generally allowed in this country. 3 Am. & Eng. Encyc. of Law, 762.

**SEC. 21.—Carrier has reasonable time to determine validity of claims.** If some one other than the consignee or person in possession of the bill, has a claim to the title or possession of the goods, and the carrier has information of such claim, the carrier shall be excused from liability for refusing to deliver the goods either to the consignee or person in possession of the bill, or to the adverse claimant, until the carrier has had a reasonable time to ascertain the validity of the adverse claim or to bring legal proceedings to compel all claimants to interplead.

It seems obviously proper that the carrier should be protected for such brief period as may be necessary to enable him to determine the rights of the claimants.

**SEC. 22.—Adverse title is no defence, except as above provided.** Except as provided in the two preceding sections and in Section 12, no right or title of a third person unless enforced by legal process shall be a defence to an action brought by the con-

signee of a non-negotiable bill or by the holder of a negotiable bill against the carrier for failure to deliver the goods on demand.

Except as qualified by the preceding sections, the common law doctrine is here stated that a bailee cannot set up the title of a third person as an excuse for failure to deliver goods. See 3 Am. & Eng. Encyc. of Law, 758.

SEC. 23.—*Liability for non-receipt or misdescription of goods.*

If a bill of lading has been issued by a carrier or on his behalf by an agent or employee the scope of whose actual or apparent authority includes the issuing of bills of lading, the carrier shall be liable to

- (a) The consignee named in a non-negotiable bill; or
- (b) The holder of a negotiable bill,

Who has given value in good faith relying upon the description therein of the goods, for damages caused by the non-receipt by the carrier or a connecting carrier of all or part of the goods or their failure to correspond with the description thereof in the bill at the time of its issue.

If, however, the goods are described in a bill merely by a statement of marks or labels upon them or upon packages containing them, or by a statement that the goods are said to be goods of a certain kind or quantity, or in a certain condition, or it is stated in the bill that packages are said to contain goods of a certain kind or quantity or in a certain condition, or that the contents or condition of the contents of packages are unknown, or words of like purport are contained in the bill, such statements, if true, shall not make liable the carrier issuing the bill, although the goods are not of the kind or quantity or in the condition which the marks or labels upon them indicate, or of the kind or quantity or in the condition they were said to be by the consignor. The carrier may, also, by inserting in the bill the words "shipper's load and count" or other words of like purport indicate that the goods were loaded by the shipper and the description of them made by him; and if such statement be true, the carrier shall not be liable for damages caused by the improper loading or by the non-receipt or by the misdescription of the goods described in the bill

This section, perhaps imposes on the carrier a stricter rule than that generally in force in this country in that it makes a carrier liable for an innocent misdescription of the goods. See *Hale v. Milwaukee Dock Co.*, 23 Wis. 276; but as the carrier can readily protect himself by inserting in the bill only what he knows, namely, the marks on the packages or the statements of the shipper regarding them, it seems best to make the carrier responsible for what he asserts. The section also charges the carrier for the improper conduct of an employee in issuing a bill when goods have not been received. The weight of authority apart

from statute has freed the carrier from liability on the ground that the employee had no authority to issue a bill under these circumstances. But much fault has justly been found with this rule and in some States it has been changed by statute.

**SEC. 24.—Attachment or levy upon goods for which a negotiable bill has been issued.** If goods are delivered to a carrier by the owner or by a person whose act in conveying the title to them to a purchaser for value in good faith would bind the owner and a negotiable bill is issued for them, they cannot thereafter, while in the possession of the carrier, be attached by garnishment or otherwise, or be levied upon under an execution, unless the bill be first surrendered to the carrier or its negotiation enjoined. The carrier shall in no such case be compelled to deliver the actual possession of the goods until the bill is surrendered to him or impounded by the Court.

If the mercantile theory of documents of title, such as bills of lading and warehouse receipts, were carried to its logical extent, no attachment of the goods represented by the document or levy upon them could be permitted while the negotiable document was outstanding. For the mercantile theory proceeds upon the assumption that a negotiable document of title represents the goods and may be safely dealt with on that assumption. For one and the same reason the law cannot permit the bailee to deliver the goods without taking up an outstanding negotiable receipt for them, or allow attachment or levy upon the goods, when they are represented by outstanding negotiable documents. For a similar reason the maker of negotiable notes is protected from garnishment; in most States by absolutely disallowing such garnishment and in other States by making any garnishment subject to the rights of even a subsequent purchaser for value before maturity of the paper. Likewise by statute in some States an attachment of stock is postponed to a subsequent purchaser of the stock certificate. *Clews v. Friedman*, 180 Mass. 556. So in the case of carriers, some protection against garnishment has been given. In most States, if the goods are actually in transit the carrier cannot be garnished, 14 Am. & Eng. Encyc. of Law, 810. A transfer of the bill of lading prevails over a subsequent attachment. *Mather v. Gordon*, 59 At. Rep. 424 (Conn.); *Robert C. White Co. v. Chicago & C. R. Co.*, 87 Mo. App. 330; *Union Bank v. Rowan*, 23 S. C. 339; and in *Peters v. Elliott*, 78 Ill. 321, it was held, that an attaching creditor of a consignor was postponed to one who bought the bill of lading subsequently.

It was thought best in this Act not to take the extreme position that no attachment, garnishment or levy could be made on property for which a negotiable bill was outstanding, but to cover the essential practical point by making it a condition of the validity of such seizure that the negotiation of the bill be enjoined or the document impounded. The following section expressly gives the Court full power to aid, by injunction and otherwise, a creditor seeking to get at a negotiable bill and the property covered thereby.

**SEC. 25.—Creditor's remedies to reach negotiable bills.** A creditor whose debtor is the owner of a negotiable bill shall be entitled to such aid from Courts of appropriate jurisdiction by injunction and otherwise in attaching such bill, or in satisfying the

claim by means thereof as is allowed at law or in equity in regard to property which can not readily be attached or levied upon by ordinary legal process.

As the right of legal garnishment of bailed property is limited by Section 24, the creditor is given by this section such rights as are included under the head of bills of equitable attachment, or in aid of execution.

SEC. 26.—*Negotiable bill must state charges for which lien is claimed.* If a negotiable bill is issued the carrier shall have no lien on the goods therein mentioned, except for charges on those goods for freight, storage, demurrage and terminal charges, and expenses necessary for the preservation of the goods or incident to their transportation subsequent to the date of the bill, unless the bill expressly enumerates other charges for which a lien is claimed. In such case there shall also be a lien for the charges enumerated so far as they are allowed by law and the contract between the consignor and the carrier.

This section is obviously requisite for the credit of negotiable bills, and is part of the general plan to make such bills indicate as clearly as possible on their face for what they stand.

SEC. 27.—*Effect of sale.* After goods have been lawfully sold to satisfy a carrier's lien, or because they have not been claimed, or because they are perishable or hazardous, the carrier shall not thereafter be liable for failure to deliver the goods to the consignee or owner of the goods, or to a holder of the bill given for the goods when they were shipped, even if such bill be negotiable.

This section necessarily qualifies the right of a purchaser to a negotiable bill; such a purchaser may ordinarily assume that if the document was issued to the owner of goods and has been legally transferred to the purchaser, the latter will get a good title, but this assumption must be qualified by the chance referred to in this section. The age of the bill will, however, ordinarily give warning.

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### PART III

#### NEGOTIATION AND TRANSFER OF BILLS

SEC. 28.—*Negotiation of negotiable bills by delivery.* A negotiable bill may be negotiated by delivery where, by the terms of the bill, the carrier undertakes to deliver the goods to the order of a specified person, and such person or a subsequent indorsee of the bill has indorsed it in blank.

This section should be read in connection with the following four sections. Thus, Section 29, provides as to the method of negotiating order bills. Section



31 provides as to what persons may make effective negotiation, and Section 32 provides what rights are acquired by a purchaser if such a person, as is described in Section 31, negotiates the bill in the manner permitted by Sections 28 and 29. In allowing negotiation by delivery of a bill indorsed in blank, the draft follows the rule in regard to bills and notes, which is that also applied by mercantile usage to bills of lading.

SEC. 29.—*Negotiation of negotiable bills by indorsement.* A negotiable bill may be negotiated by the indorsement of the person to whose order the goods are deliverable by the tenor of the bill. Such indorsement may be in blank or to a specified person. If indorsed to a specified person, it may be negotiated again by the indorsement of such person in blank or to another specified person. Subsequent negotiation may be made in like manner.

As the preceding section adopted the rule of bills and notes as to negotiation by delivery, so this section similarly adopts a rule in regard to negotiation by indorsement.

SEC. 30.—*Transfer of bills.* A bill may be transferred by the holder by delivery, accompanied with an agreement, express or implied, to transfer the title to the bill or to the goods represented thereby.

A non-negotiable bill can not be negotiated, and the indorsement of such a bill gives the transferee no additional right.

As provision is made in several sections for the negotiation of bills, so it is also provided what the effect is of the transfer of bills, including the transfer of non-negotiable bills and of negotiable bills without complying with such formalities as are necessary to make an effective negotiation of them. There is no section providing as to who may transfer a bill, corresponding to Section 31 as to who may negotiate a bill, since under Section 33, where a bill is transferred, but not negotiated, the transferee can in no case acquire a greater right than the transferor had. Whoever, therefore, transfers a bill, can give such a right and no more.

SEC. 31.—*Who may negotiate a bill.* A negotiable bill may be negotiated by any person in possession of the same, however such possession may have been acquired if, by the terms of the bill, the carrier undertakes to deliver the goods to the order of such person, or if at the time of negotiation the bill is in such form that it may be negotiated by delivery.

This section and the following are of fundamental importance to the mercantile community. They state familiar law in regard to bills and notes, and there is authority for applying the same rules to bills of lading, both in the statutes making bills of lading negotiable and in decisions of Courts recognizing mercantile custom. *Commercial Bank v. Armsby Co.*, 120 Ga. 74; *Pollard v. Reardon*, 65 Fed. 848 (C. C. A.); *Munroe v. Philadelphia Warehouse Co.*, 75 Fed. 545; *Tiedeman v. Knox*, 53 Md. 612; *Hardie v. R. R. Co.*, 118 La. 254; *Scheurman v. Monarch Fruit Co.* (March 1, 1909),—La.—S. C. 48 Southern

Rep. 647. For German Law see Handelsgesetzbuch secs. 363, 426, 442, 446-448. This section is also in harmony with the views expressed by the American Bar Association. See Vol. 33, Reports American Bar Association, pp. 24, 25 and 506, 507.

SEC. 32.—*Rights of person to whom a bill has been negotiated.*  
A person to whom a negotiable bill has been duly negotiated acquires thereby.

(a) Such title to the goods as the person negotiating the bill to him had or had ability to convey to a purchaser in good faith for value, and also such title to the goods as the consignee and consignor had or had power to convey to a purchaser in good faith for value, and

(b) The direct obligation of the carrier to hold possession of the goods for him according to the terms of the bill as fully as if the carrier had contracted directly with him.

Even more than the preceding section, this section raises sharply the issue between what may be called the mercantile theory of bills of lading and the common law theory. The common law theory may be stated in these words: The bill of lading is a symbol of the property. Delivery of the bill of lading has the same effect as delivery of the property, but as property may be delivered without transferring title and without estopping the owner from asserting his title against one who has bought in good faith from the possessor, so in case of a bill of lading the original owner of the goods may always show what the real nature of the transaction was, even against a *bona fide* purchaser. Merchants and bankers, on the other hand, regard the bill of lading as a representation of title as well as a symbol of possession. See the decisions cited in the note to the preceding section as to the mercantile theory, and compare recent expressions in *The Carlos F. Roses*, 177 U. S. 655, 665; *Washburn-Crosby Co. v. Boston & Albany R. R. Co.*, 180 Mass. 252, 257.

This Act adopts the mercantile theory in providing that the person to whom the bill has been duly negotiated, acquires not only the title of the person who negotiated the bill, but also such title as the consignor and consignee had. That is, the purchaser may regard the form of the bill as a representation on the part of the consignor that the consignee was the owner of the goods.

Subsection (b) provides that the person to whom the bill is negotiated shall succeed to the contract rights under the bill of lading as well as the property rights.

SEC. 33.—*Rights of person to whom a bill has been transferred.* A person to whom a bill has been transferred but not negotiated acquires thereby as against the transferor, the title to the goods, subject to the terms of any agreement with the transferor. If the bill is non-negotiable, such person also acquires the right to notify the carrier of the transfer to him of such bill, and thereby to become the direct obligee of whatever obligations the carrier owed to the transferor of the bill immediately before the notification.

Prior to the notification of the carrier by the transferor or transferee of a non-negotiable bill, the title of the transferee to the goods and the right to acquire the obligation of the carrier may be defeated by garnishment or by attachment or execution upon the goods by a creditor of the transferor, or by a notification to the carrier by the transferor or a subsequent purchaser from the transferor of a subsequent sale of the goods by the transferor.

A carrier has not received notification within the meaning of this section unless an officer or agent of the carrier, the actual or apparent scope of whose duties includes action upon such a notification, has been notified; and no notification shall be effective until the officer or agent to whom it is given has had time with the exercise of reasonable diligence to communicate with the agent or agents having actual possession or control of the goods.

So far as the non-negotiable bill is concerned, this section states the rights at common law of a purchaser of bailed goods. The purchaser, therefore, acquires nothing by the bill of lading except evidence. In case of a negotiable bill, the purchaser has the further right given by the next section.

**SEC. 34.—*Transfer of negotiable bill without indorsement.*** Where a negotiable bill is transferred for value by delivery, and the indorsement of the transferor is essential for negotiation, the transferee acquires a right against the transferor to compel him to indorse the bill, unless a contrary intention appears. The negotiation shall take effect as of the time when the indorsement is actually made. This obligation may be specifically enforced.

This follows the analogy of bills and notes. Crawford's Negotiable Instrument Law, Section 79.

**SEC. 35.—*Warranties on sale of bill.*** A person who negotiates or transfers for value a bill by indorsement or delivery, including one who assigns for value a claim secured by a bill, unless a contrary intention appears, warrants—

- (a) That the bill is genuine,
- (b) That he has a legal right to transfer it,
- (c) That he has knowledge of no fact which would impair the validity or worth of the bill, and
- (d) That he has a right to transfer the title to the goods, and that the goods are merchantable or fit for a particular purpose whenever such warranties would have been implied, if the contract of the parties had been to transfer without a bill the goods represented thereby.

In the case of an assignment of a claim secured by a bill, the liability of the assignor shall not exceed the amount of the claim.

The clause in the first paragraph beginning "including" was inserted to avoid any possible misapprehension as to the scope of Section 37.

This section, except (d), follows the Negotiable Instrument Law, Crawford, §115. (d) it is believed states the existing law.

**SEC. 36.—*Indorser not a guarantor.*** The indorsement of a bill shall not make the indorser liable for any failure on the part of the carrier or previous indorsers of the bill to fulfill their respective obligations.

Mercantile usage in regard to warehouse receipts and bills of lading differs from that in regard to bills and notes in the matter to which this section relates. It states the existing law even where statutes have made warehouse receipts and bills of lading negotiable. *Shaw v. Railroad Co.*, 101 U. S. 557; *Mida v. Geissmann*, 17 Ill. App. 207.

**SEC. 37.—*No warranty implied from accepting payment of a debt.*** A mortgagee or pledgee, or other holder of a bill for security who in good faith demands or receives payment of the debt for which such bill is security, whether from a party to a draft drawn for such debt or from any other person, shall not be deemed by so doing to represent or to warrant the genuineness of such bill or the quantity or quality of the goods therein described.

There are several English decisions to the effect that the holder of a bill of exchange having a forged bill of lading as security is not liable to refund payment of the draft if he receives payment from the drawee. To the same effect are *Hoffman v. Bank*, 12 Wall. 181; *Goetz v. Bank*, 119 U. S. 551, and see *Daniel on Neg. Inst.*, §§ 174, 175.

In *Landa v. Lattin*, 19 Tex. Civ. App. 246, however, without referring to these authorities, the Court went to the extreme length of holding that the holder of a bill of lading taken for security on the discount of a draft succeeded to all the liabilities of his transferor, the seller of the goods, and was to be regarded as warranting the quality of the goods to the same extent as the seller. This decision, though opposed to both authority and reason, was soon followed in *Finch v. Gregg*, 126 N. C. 176, and *Searles v. Smith Co.*, 80 Miss. 688. Contrary decisions, however, have been rendered in *Tolerton-Stetson Co. v. Anglo-California Bank*, 112 Ia. 706; *Hall v. Keller*, 64 Kans. 211; *German-American Bank v. Craig*, 70 Neb. 41; *Leonhardt v. Small*, 117 Tenn. 153, and more recently *Landa v. Lattin* has been overruled in its own State. *Blaidsell Co. v. Citizens Nat. Bank*, 96 Tex. 626; and *Finch v. Gregg*, *supra*, has also been overruled *Mason v. Nelson Cotton Co.*, 148 N. C. 492. Nevertheless, the earlier Texas doctrine has been followed subsequently in Alabama. *Haas v. Citizens' Nat. Bank*, 144 Ala. 562.

**SEC. 38.—*When negotiation not impaired by fraud, accident, mistake, duress or conversion.*** The validity of the negotiation of a bill is not impaired by the fact that such negotiation was a breach of duty on the part of the person making the negotiation, or by the fact that the owner of the bill was deprived by the possession

of the same by fraud, accident, mistake, duress or conversion, if the person to whom the bill was negotiated, or a person to whom the bill was subsequently negotiated, gave value therefor, in good faith, without notice of the breach of duty, or fraud, accident, mistake, duress or conversion.

This section merely elaborates for the sake of clearness certain cases within the terms of Section 31.

SEC. 39.—*Subsequent negotiation.* Where a person having sold, mortgaged, or pledged goods which are in a carrier's possession and for which a negotiable bill has been issued, or having sold, mortgaged, or pledged the negotiable bill representing such goods, continues in possession of the negotiable bill, the subsequent negotiation thereof by that person under any sale, pledge, or other disposition thereof to any person receiving the same in good faith, for value and without notice of the previous sale, shall have the same effect as if the first purchaser of the goods or bill had expressly authorized the subsequent negotiation.

This is copied from Section 25 (1) of the English Sale of Goods Act, where it applies to all sales of goods. It is of special importance in the case of negotiable documents of title.

SEC. 40.—*Form of the bill as indicating rights of buyer and seller.* Where goods are shipped by the consignor in accordance with a contract or order for their purchase, the form in which the bill is taken by the consignor shall indicate the transfer or retention of the property or right to the possession of the goods as follows:

(a) Where by the bill the goods are deliverable to the buyer or to his agent, or to the order of the buyer or of his agent, the consignor thereby transfers the property in the goods to the buyer.

(b) Where by the bill the goods are deliverable to the seller or to his agent, or to the order of the seller or of his agent, the seller thereby reserves the property in the goods. But if, except for the form of the bill, the property would have passed to the buyer on shipment of the goods, the seller's property in the goods shall be deemed to be only for the purpose of securing performance by the buyer of his obligations under the contract.

(c) Where by the bill the goods are deliverable to the order of the buyer or of his agent, but possession of the bill is retained by the seller or his agent, the seller thereby reserves a right to the possession of the goods, as against the buyer.

(d) Where the seller draws on the buyer for the price and transmits the draft and bill together to the buyer to secure acceptance or payment of the draft, the buyer is bound to return the bill if he does not honor the draft, and if he wrongfully retains the bill he acquires no added right thereby. If, however, the bill provides that the goods are deliverable to the buyer, or to the order of the buyer, or is indorsed in blank or to the buyer by the consignee named therein, one who purchases in good faith, for value, the bill or goods from the buyer, shall obtain the title to the goods, although the draft has not been honored, if such purchaser has received delivery of the bill indorsed by the consignee named therein, or of the goods, without notice of the facts making the transfer wrongful.

It has for centuries been recognized that the form of the bill of lading was evidence of intent on the part of the seller to transfer or retain title. If the seller names himself not only as consignor, but also as consignee of the goods, the carrier is bailee for him and is his agent, in holding possession. It is also a fair presumption that title remains in the seller, as he is entitled to possession. On the other hand, if the seller names the buyer as consignee, the contract of the carrier is to deliver to the buyer; the carrier's possession is, therefore, for the buyer and with the right to possession presumably title also goes. The rules stated in this section are believed to be in accordance with at least the presumptions recognized by existing law. The difficulty with the law as it now exists is, many Courts seem disposed to say that an intention contrary to that which the form of the bill indicates, may be shown even as against third persons. See Sales Act, Section 20.

SEC. 41.—*Demand, presentation or sight draft must be paid, but draft on more than three days' time merely accepted before buyer is entitled to the accompanying bill.* Where the seller of goods draws on the buyer for the price of the goods and transmits the draft and a bill of lading for the goods either directly to the buyer or through a bank or other agency, unless a different intention on the part of the seller appears, the buyer and all other parties interested shall be justified in assuming:

(a) If the draft is by its terms or legal effect payable on demand or presentation or at sight, or not more than three days thereafter (whether such three days be termed days of grace or not), that the seller intended to require payment of the draft before the buyer should be entitled to receive or retain the bill.

(b) If the draft is by its terms payable on time, extending beyond three days after demand, presentation or sight (whether such three days be termed days of grace or not), that the seller intended to require acceptance, but not payment of the draft before the buyer should be entitled to receive or retain the bill.

The provisions of this section are applicable whether by the terms of the bill the goods are consigned to the seller, or to his order, or to the buyer, or to his order, or to a third person, or to his order.

This section covers a question that has caused some litigation (see Williston on Sales, Section 290); and is probably warranted by existing law.

Drafts on demand, presentation or sight, are assimilated by Section 7 of the Uniform Negotiable Instruments Act. See Brannan Negotiable Instruments (1908), pp. 4 and 43.

**SEC. 42.—*Negotiation defeats vendor's lien.*** Where a negotiable bill has been issued for goods, no seller's lien or right of stoppage *in transitu* shall defeat the rights of any purchaser for value in good faith to whom such bill has been negotiated, whether such negotiation be prior or subsequent to the notification to the carrier who issued such bill of the seller's claim to a lien or right of stoppage *in transitu*. Nor shall the carrier be obliged to deliver or justified in delivering the goods to an unpaid seller unless such bill is first surrendered for cancellation.

This section is covered by the Uniform Sales Act Sections 59 (2) and 62. It was decided in *Newhall v. Central Pacific R. R.*, 51 Cal. 345, that a railroad redelivering goods to the seller on receiving notice of stoppage *in transitu* was liable to a purchaser of a bill of lading issued for the goods, though the purchase was subsequent to the notice to stop. The case has been somewhat criticised by text-writers, but there are no decisions against it, and it seems clearly better to protect the innocent purchaser of the bill than the seller who has voluntarily taken part in the issue of the bill. If the purchaser of the bill is to be protected, the carrier must necessarily be allowed to protect himself by refusing to deliver the goods until the bill of lading is surrendered.

**SEC. 43.—*When rights and remedies under mortgages and liens are not limited.*** Except as provided in Section 42, nothing in this Act shall limit the rights and remedies of a mortgagee or lienholder whose mortgage or lien on goods would be valid, apart from this Act, as against one who for value and in good faith purchased from the owner, immediately prior to the time of their delivery to the carrier, the goods which are subject to the mortgage or lien and obtained possession of them.

This section is declaratory and is intended to make perfectly clear that neither Section 24 nor any other section is intended to be subversive of established laws governing chattel mortgages and liens on goods prior to the time of their delivery to the carrier; in so far at least as such mortgages and liens are good not simply between the parties, but against third parties.

PART IV  
CRIMINAL OFFENCES

SEC. 44.—*Issue of bill for goods not received.* Any officer, agent, or servant of a carrier, who with intent to defraud issues or aids in issuing a bill knowing that all or any part of the goods for which such bill is issued have not been received by such carrier, or by an agent of such carrier or by a connecting carrier, or are not under the carrier's control at the time of issuing such bill, shall be guilty of a crime, and upon conviction shall be punished for each offence by imprisonment not exceeding five years, or by a fine not exceeding five thousand dollars, or by both.

To insure the fundamental basis on which the value of negotiable bills of lading must rest, it is necessary to punish criminally misrepresentation or fraud in regard to the existence of the goods behind the bill of lading. Other obvious frauds are aimed at by six following sections.

SEC. 45.—*Issue of bill containing false statement.* Any officer, agent, or servant of a carrier, who with intent to defraud issues or aids in issuing a bill for goods knowing that it contains any false statement, shall be guilty of a crime, and upon conviction shall be punished for each offence by imprisonment not exceeding one year, or by a fine not exceeding one thousand dollars, or by both.

See note to Section 44.

SEC. 46.—*Issue of duplicate bills not so marked.* Any officer, agent, or servant of a carrier, who with intent to defraud issues or aids in issuing a duplicate or additional negotiable bill for goods in violation of the provisions of Section 7, knowing that a former negotiable bill for the same goods or any part of them is outstanding and uncanceled, shall be guilty of a crime, and upon conviction shall be punished for each offence by imprisonment not exceeding five years, or by a fine not exceeding five thousand dollars, or by both.

See note to Section 44.

SEC. 47.—*Negotiation of bill for mortgaged goods.* Any person who ships goods to which he has not title, or upon which there is a lien or mortgage, and who takes for such goods a negotiable bill which he afterwards negotiates for value with intent to deceive and without disclosing his want of title or the existence of the lien or mortgage, shall be guilty of a crime, and upon conviction



shall be punished for each offence by imprisonment not exceeding one year, or by a fine not exceeding one thousand dollars, or by both.

See note to Section 44.

SEC. 48.—*Negotiation of bill when goods are not in carrier's possession.* Any person who with intent to deceive negotiates or transfers for value a bill knowing that any or all of the goods which by the terms of such bill appear to have been received for transportation by the carrier which issued the bill, are not in the possession or control of such carrier, or of a connecting carrier, without disclosing this fact, shall be guilty of a crime, and upon conviction shall be punished for each offence by imprisonment not exceeding five years, or by a fine not exceeding five thousand dollars, or by both.

See note to Section 44.

SEC. 49.—*Inducing carrier to issue bill when goods have not been received.* Any person who with intent to defraud secures the issue by a carrier of a bill knowing that at the time of such issue, any or all of the goods described in such bill as received for transportation have not been received by such carrier, or an agent of such carrier or a connecting carrier, or are not under the carrier's control, by inducing an officer, agent, or servant of such carrier falsely to believe that such goods have been received by such carrier, or are under its control, shall be guilty of a crime, and upon conviction shall be punished for each offence by imprisonment not exceeding five years, or by a fine not exceeding five thousand dollars, or by both.

See note to Section 44.

SEC. 50.—*Issue of non-negotiable bill not so marked.* Any person who with intent to defraud issues or aids in issuing a non-negotiable bill without the words "not negotiable" placed plainly upon the face thereof, shall be guilty of a crime, and upon conviction shall be punished for each offence by imprisonment not exceeding five years or by a fine not exceeding five thousand dollars, or by both.

See note to Section 44.

PART V  
INTERPRETATION

SEC. 51.—*Rule for cases not provided for in this Act.* In any case not provided for in this Act, the rules of law and equity including the law merchant, and in particular the rules relating to the law of principal and agent, executors, administrators and trustees, and to the effect of fraud, misrepresentation, duress or coercion, accident, mistake, bankruptcy, or other invalidating cause, shall govern.

A similar provision is commonly inserted when an attempt is made to reduce to statutory form any topic of the law as in the Negotiable Instrument Law, the Sales Act and Warehouse Receipts Act.

SEC. 52.—*Interpretation shall give effect to purpose of uniformity.* This Act shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those States which enact it.

This section is taken from the Sales Act and Warehouse Receipts Act, in order to induce the Courts to consider not primarily the law previously existing in one State, but that existing in the States generally, in construing the present bill.

Although the Negotiable Instruments Act does not contain this section yet the Courts of last resort have rightly applied this rule. See Brannan on Negotiable Instruments Law (1908), page 1, note 2, and cases there cited and Crawford, Neg. I. L. (3d ed., 1908), p. 3.

SEC. 53.—*Definitions.* (1) In this Act, unless the context or subject matter otherwise requires—

“Action” includes counter claim, set-off, and suit in equity.

“Bill” means bill of lading.

“Consignee” means the person named in the bill as the person to whom delivery of the goods is to be made.

“Consignor” means the person named in the bill as the person from whom the goods have been received for shipment.

“Goods” means merchandise or chattels in course of transportation, or which have been or are about to be transported.

“Holder” of a bill means a person who has both actual possession of such bill and a right of property therein.

“Order” means an order by indorsement on the bill.

“Owner” does not include mortgagee or pledgee.

“Person” includes a corporation or partnership or two or more persons having a joint or common interest.

To "purchase" includes to take as mortgagee and to take as pledgee.

"Purchaser" includes mortgagee and pledgee.

"Value" is any consideration sufficient to support a simple contract. An antecedent or pre-existing obligation, whether for money or not, constitutes value where a bill is taken either in satisfaction thereof or as security therefor.

(2) A thing is done "in good faith," within the meaning of this Act, when it is in fact done honestly, whether it be done negligently or not.

The only definitions in this section requiring comment are the last two. The definition of value follows the Uniform Negotiable Instruments Act, the Uniform Sales Act, the Uniform Warehouse Receipts Act, and the Uniform Transfer of Stock Act, and applies the same doctrine to bills of lading. While weight of authority, aside from statute, may have been opposed to quite so broad a definition of value in transactions in other documents than bills and notes, some courts at least have consistently applied the same rule to all transactions, and certainly so far as bills of lading are concerned, it seems unadvisable to make a distinction.

The definition of good faith here given is that recognized by the great weight of authority in the law of bills and notes, and the rule in equity generally seems to be the same.

**SECTION 54.**—*Act does not apply to existing bills.* The provisions of this Act do not apply to bills made and delivered prior to the taking effect thereof.

**SECTION 55.**—*Inconsistent legislation repealed.* All Acts or parts of Acts inconsistent with this Act are hereby repealed.

**SECTION 56.**—*Time when the Act takes effect.* This Act shall take effect on the.....day of....., one thousand nine hundred and.....

**SECTION 57.**—*Name of Act.* This Act may be cited as the Uniform Bills of Lading Act.

THE PRESIDENT: Is there any motion with reference to this report?

WILLIAM D. CROCKER, Lycoming: I move the report be received, and consideration postponed to a future session of the Association.

Duly seconded, and agreed to.

THE PRESIDENT: Next in order is the report of the Special Committee on Comparative Jurisprudence.

CHARLES WETHERILL, *Chairman*, Philadelphia: On behalf of that Committee I would say that the report is in print, and therefore already before you, and includes a final report on all matters referred to the Committee at our last meeting.

### THE SPECIAL COMMITTEE ON COMPARATIVE JURISPRUDENCE

The Special Committee on Comparative Jurisprudence begs leave to report:

That we have completed the literary work committed to us. On December 9th last the translation of the German Civil Code with introductory historical and critical essays and reference notes was finally published under the joint auspices of this Association and the University of Pennsylvania. On January 16th two specially bound copies were taken to Washington, one of which was handed to the German Ambassador to be forwarded by him to the German Emperor, to whom the work is dedicated with his permission, and the other presented to the Hon. George W. Wickersham, the Attorney-General of the United States. Mr. Wickersham acknowledged receipt by letter, of which the following is a copy:

THE ATTORNEY GENERAL  
WASHINGTON

January 20, 1910.

*Messrs. William W. Smithers, William Draper Lewis and Charles Wetherill, Committee of the Pennsylvania Bar Assn., Phila., Pa.*

GENTLEMEN:—I beg to acknowledge the receipt of the Civil Code of the German Empire translated by Walter Loewy, Esq., and published under the auspices of and annotated by you as a special committee of the Pennsylvania Bar Association and of the Law School of the University of Pennsylvania.

I am very appreciative of your courtesy and the compliment which you pay me in sending me a copy of this great work

and I assure you that the tangible evidence of the scholarship and industry involved in its preparation will be an inspiration to me to endeavor to follow your example in the pathway of sound learning and thorough intelligent effort.

With expressions of the highest appreciation, believe me to be

Faithfully yours,

(Signed) GEO. W. WICKERSHAM.

The printing and binding of the work was done by the International Printing Company of Philadelphia and one thousand copies authorized to be issued. A contract was made with the Boston Book Company to act as sole agent in the United States and Canada, and with Sweet and Maxwell, Limited, of London, England, in all other parts of the world.

The retail price was fixed at five dollars and a commission of thirty-three and one-third ( $33\frac{1}{3}$ ) per cent. on all sales allowed Sweet and Maxwell, Limited, and forty (40) per cent. to the Boston Book Company. The copyright belongs to this Association and the University of Pennsylvania. The electrotype plates are in the care of the Law School of the University.

We congratulate this Association and the University of Pennsylvania on the completion of this translation of the greatest work of legislation of modern times. When it was committed to us in 1906, no association of the legal profession of our country had given any special consideration to foreign laws, and as a classified study the subject was a new one in the most advanced of our law schools. The pioneer efforts of this Association have received widespread commendation and led to such general professional recognition that the Bureau of Comparative Law of the American Bar Association was organized in 1907 and has since proven to be a valuable aid to the Bench and Bar of the country. Through a strong editorial staff composed of some of the ablest and best known legal scholars works similar in value and importance to those of the cele-

brated French Society of Comparative Legislation are now being issued under the auspices of the national association of the legal profession. The logical concentration of the work in the hands of the American Bar Association makes it unnecessary and inadvisable for the State bodies to do aught but co-operate by affiliation and representation.

At the last meeting of this Association (XV Proceedings, 237-239) the subject of the repeal of obsolete and needless statutes was referred to this Committee "with direction to report to this Association such Acts as may be found necessary on the subject." The last report of this Committee contained a copy of a British statute, "promoting the revision of the statute law by repealing enactments which have ceased to be in force, or have become unnecessary" (8 Edw. VII, ch. 49), this being a subject which seemed to this Committee of sufficient importance to be brought to the notice of the Association.

Since the foundation of the Commonwealth no general examination of the statutory law has been made for the purpose of the repeal of obsolete laws, of Acts passed for temporary purposes, of Acts general in form but intended to remedy some special or individual hardship, or of all Acts but one, when several statutes have been passed relating to the same subject. These Acts remain the submerged law of the land, forgotten or overlooked, except when they are occasionally cited for the purpose of defeating just claims. For example, the Act of 1797, April 1 (3 Sm. L. 294), commands that bread shall be sold by the pound avoirdupois, and avoids all contracts for the sale of bread in any other manner. The Act was forgotten and became a dead letter; the custom of selling bread by the loaf became common, even universal in Philadelphia, and yet in 1876 this law was successfully cited to defeat a just claim to which the only defense set up was that in the contract sued upon the bread was agreed to be sold by the loaf. (*Johnson vs. Kolb*, 3 W. N. C. 273.) This legal phantom is still in force.

Careful revision of the laws of the State with a view of reporting for repeal the obsolete and needless statutes is recommended. This work, however, even if thoroughly done, would not alone remedy the evil, which is the redundancy of statutes,—of several statutes covering wholly or partially the same subject, producing a state of confused and even contradictory and conflicting legislation so that it is difficult or impossible to advise what the law is.

An instance of the number of statutes on the same subject will be found in the reporter's note to the North Lebanon Township Road (3 C. C. R. 401), which contains a list of the Acts regulating the law as to the opening of roads. The note begins by citing fourteen general Acts prior to the Act of 1836. This is followed by a list of the special Acts, which, not including the special laws passed as to Philadelphia, occupies seven closely printed pages.

This condition should be avoided by having one law embodying the statutes on each principal legal subject. To a certain extent effort along this line has been and is being made. The Acts of March 31, 1860, as to crimes and misdemeanors and criminal procedure represent a unification and revision of the prior criminal law in substitution of a mass of prior legislation which had become confusing, inadequate and inappropriate. They stand as monuments of care and excellence.

At the last session of the Legislature an Act was approved as to fishing, fish protection and propagation (May 1, 1909, P. L. 353), which is not a codification, but a unification of the law on the subject, repealing by their titles all the earlier Acts.

This work of unifying existing legislation should be distinguished from that of drafting new legislation on particular subjects. Even so limited, this Committee is fully aware that the labor involved in such a work of revision as is now advised is of such extent and character that it should not and can not be undertaken by any committee or

arm of the legal profession alone, acting independently. It would demand legal learning, skill and industry of an uncommon type and especially should it be done by direction of public authority. It would require the collaboration of a number of men specially learned in the law, willing to devote a large amount of their time to a work which would probably occupy several years. In the opinion of your Committee there is a crying need for this revision and unification of the statutory law of this State and that the drafting and passage of an Act repealing obsolete and mere shelf-burdening laws such as was referred to this Committee would be inadequate and tend to delay the general revision and unification so very necessary to the citizens of the State. We believe that the situation demands the appointment of a commission for this purpose duly authorized by appropriate legislation.

The recommendations of this Committee are embodied in the following resolutions:

(1) *Resolved*, That this Association recommend to the Legislature at its next session that it provide for the appointment of a Commission on the Revision and Unification of the Statutory law.

(2) *Resolved*, That the President appoint a special committee of five members to draft and present to the next Legislature an appropriate Act authorizing the Governor to appoint a Commission to examine and consider the statutes in force, report those Acts proper to be repealed as obsolete or needless and prepare a concise and practical Revision and Unification of the Statutes of Pennsylvania not so reported for repeal.

(3) *Resolved*, That this Committee be discharged.

All of which is

Respectfully submitted.

WILLIAM DRAPER LEWIS,  
WILLIAM W. SMITHERS,  
CHARLES WETHERILL, *Chairman*.



THE PRESIDENT: What is your pleasure, gentlemen, as to this report?

STANLEY FOLZ, Philadelphia: I move this report be received, and the resolution contained be taken up later in the week.

Duly seconded, and agreed to.

THE PRESIDENT: Next in order is the report of the Special Committee on Legal Ethics.

NATHANIEL EWING, *Chairman*, Fayette: The report of the Special Committee on Legal Ethics is in print, and I think very generally circulated among the members of the Association, and I trust all that it is necessary to do at this time is formally to present the report.

### REPORT OF THE SPECIAL COMMITTEE ON LEGAL ETHICS

*To the Pennsylvania Bar Association:*

GENTLEMEN:—By reference to the previous reports of this Committee it will be seen that advice and assistance have been earnestly sought in all directions and from all sources, and particularly from the members of this Association, in the desire to produce a work not only satisfactory to this Association, but one which also will best subserve the purposes for which such a work is designed, the inculcation and the observance of the highest and best standards of personal and professional conduct applicable to the members of the great profession of the law. And this course has been followed still further during the past year.

Following the meeting of last year, communications were addressed to the gentlemen who then participated in the discussion of this subject, requesting them to give us the benefit of a full expression of their views, and the replies received, and the published account of that discussion and the prior work of this Committee, have been con-

sidered and reconsidered during the past year, with the result that the ethical precepts which are now herewith presented will be found, we believe, when compared with those reported last year, to be much abridged, amended and improved. Any further amendment tending to their greater improvement will be welcomed.

The form in which these precepts were originally presented has been adhered to, not in any pride of opinion, but solely because of the very positive conviction, strengthened only by further study and consideration, that in such form the principles declared will be the more readily comprehended (since no analyses of long and somewhat involved paragraphs are required) and will best arrest the attention, impress the mind and fasten upon the memory. "Thou shalt not kill" is a much more forcible and impressive command, and more dignified, also, than it would be to say "Since all life is the gift of God, and, therefore, all are God's creatures and without dominion the one over the other, it is not permitted to any one to abridge another's life." The former is also more easily remembered. For practical purposes, then, is it not the better form?

It has been far from the purpose or desire of this Committee to seek for grounds of objection to other declarations on legal ethics. On the contrary, other things being equal, we would prefer entire agreement with those declarations in both form and substance. But, as we conceive it, the primary and all-important object in any such deliverance is not merely the formulation of a high standard of professional conduct, but the publication of that standard in such terms as, without detracting one iota from the importance of the principles involved, will best serve to advise and instruct the profession and, very particularly, to educate and train the students and junior members. Our endeavor, therefore, has been to draft such ethical precepts in the form which, we think, will best serve this purpose, and by their adoption and observance will produce

such practical results; and not simply to present for your consideration a moral essay written in fine literary style. If practical results are not aimed at, any such work is wholly useless.

Nor is it any reflection upon any other body of men that this Association should adopt principles of legal ethics differing in expression from theirs. The substance of all is practically the same. At best such action only evidences a difference of opinion as to the method of attaining the great end which all are seeking after; and difference of opinion is about the last thing which should affright a body of lawyers. Pennsylvania lawyers are fully as capable as any others of formulating a Code of professional ethics, and best understand the local situation; and if, by a new departure, they can the sooner and better accomplish the desired results, it is not only their privilege, but their duty also, to take that step.

We, therefore, present for your earnest and careful consideration the subjoined precepts in legal ethics. Whatever may be your conclusion respecting this work, you must be assured that it was undertaken and has been prosecuted in all seriousness, with diligence and considerable labor, and with the single desire to aid this Association in the performance of a work that will contribute directly and surely to the elevation of the profession.

As already stated, we prefer the Code herewith submitted to the Canons of Ethics of the American Bar Association; but that you may readily see just what the latter are they are printed in the Appendix.

Respectfully submitted,

ALEX. SIMPSON, JR.,  
C. LA RUE MUNSON,  
CYRUS G. DERR,  
NATHANIEL EWING, *Chairman.*

## LEGAL ETHICS

General Ethics is the science of being right—right in character, in thought, in word, and in action.

Legal Ethics is that department of the science which relates to lawyers, whether as practitioners or Judges.

This branch of the science of ethics is the groundwork of practical justice; and

Justice is the most important principle, and the administration of justice the most important process, known to society.

The intricate questions of right and wrong cannot be intelligently determined, nor justice administered, without the illumination of argument and advocacy.

The Bench cannot be supplied with capable Judges excepting from the ranks of advocacy.

The legal profession, which for generations has been growing in importance at a pace proportionate to the advance of civilization, will continue so to grow as wars pass into desuetude, and as all the conflicts of the battlefield are being transferred to the courts of justice, their subject-matters to be discussed by lawyers and passed upon by Judges, like causes between man and man.

From a profession of such enormous and growing importance to mankind, there are required motives and standards of conduct suited to its high functions and its glorious destiny.

To create at once in the minds of each one of the many thousands of lawyers in a state or nation, a full realization of these truths, and to inspire all with a purpose more deeply to feel and more scrupulously to act in furtherance of them, is not an easy task.

This much, however, is possible to us:

We may write down the cardinal principles of ethics;

We may make them authentic by formal adoption and promulgation;

We may cultivate a reverence for them which will create a stress upon us when we are inclined to leave the path of propriety;

We may set a good example to others by complying with them;

If we are Judges, greater responsibilities devolve upon us, the influence of our example is greater, and we have the power and are charged with the duty to punish intentional derelictions; but

Because it is difficult always to discern what is right to do, our judgments being susceptible to perversion by prejudice or temptation, we should impress upon our minds the importance of resorting to those written rules for light and strength, as if we were consulting the sages of the profession in matters of the dearest import to us. For the reasons thus stated we approve of the following precepts as guides to ourselves and to our brethren:

#### DUTIES OF LAWYERS AS MEMBERS OF THE COMMUNITY

1. The lawyer as a citizen, by virtue of his education and his connection with the administration of justice, is prominent in the community, and therefore his influence for good must necessarily be in proportion to the uprightness of his life.

2. A lawyer should make it a point, whenever possible, to exercise the duties of citizenship.

3. He should with all his ability oppose the nomination, election, or appointment of those unfit for judicial office, whether they be then serving or not, and should likewise strive for the retention in office of competent and satisfactory Judges irrespective of their political affiliations.

4. In the exercise of the duties of citizenship he should always be careful to act, and to encourage others to act, in strict conformity to law, and in accordance with a high standard of morality.

5. He should avoid even the appearance of acting contrary to law or good morals.

#### GENERAL PROFESSIONAL DUTIES OF THE LAWYER

6. A lawyer should ever uphold the dignity of the profession; he should not under any circumstances by word or deed disparage it, or seek to avail himself of any vulgar prejudice that may exist against it.

7. He should not suggest his own appointment as executor, administrator or trustee of his client's estate or property.

8. He should be courteous to the Court, to its officers, to witnesses, to adversaries, and to all with whom he comes in contact.

9. He should under all circumstances be a gentleman, though his client or adversary be not.

10. He should not allow himself to be employed for any purpose other than the legitimate conduct of business.

11. He may exercise the function of an advocate outside the Courts, but when he does so professionally, he should state for whom he appears.

12. He should banish pride of opinion, which, when he is wrong, will make it difficult or impossible to become right.

13. He should not ignore the known usages or customs of the profession, even though the law should permit it, without giving timely notice of his intention so to do.

14. He should not encourage lawsuits by seeking in person or by agents those supposed to have rights, and encouraging them to employ him.

15. He is best advertised by a well-merited reputation for high character and professional ability, but a modest advertisement of his profession is allowable. Inspired or assisted laudatory press notices or editorials, however, whether of the lawyer or of his cause, are inexcusable.

16. He cannot honestly prosecute for crime one whom he knows or has strong reason to believe is innocent; but he may, and when appointed by the Court oftentimes must, defend, but only by fair and honorable means, one accused of crime whom he believes to be guilty, being careful, however, not to impute the crime to anyone else.

17. No wronged person, however indigent or humble, should seek in vain for a champion at the Bar.

18. The wealth or influence of the adversary, or the adversary's client, should not mitigate the rational zeal of the lawyer; but he should never advert thereto merely for the purpose of evoking prejudice, though he may temperately do so if pertinent to the case and the evidence sustains him.

19. He should not display or permit his client to display society badges, or say or do anything merely for the purpose of invoking prejudice in his favor.

20. He should not draft or file a pleading containing averments of fact which he knows are untrue.

21. He should not assail the validity of a paper drawn by himself, for defects of the class which are imputable to the scrivener.

22. He should avoid being a witness in a cause in which he is of counsel, excepting as to formal matters not affecting the real merits of the controversy.

23. He should not in the cross-examination of a witness, or in the combating of an argument, exhibit any personal animosity.

24. He should never knowingly allow a near relative or strong personal friend of himself or of his client to remain upon the jury, without notice to the opposite side before the jury is struck.

25. He should as far as possible, approaching or pending a trial, avoid any communication with jurors on the panel even as to matters not related to the case.

26. He should not endeavor to commend himself to the jury by officious propositions for their comfort, and should not in their hearing propose to dispense with argument.

27. Treating jurors after a verdict is in bad taste, and before their verdict is recorded is absolutely wrong.

28. He should never take part, directly or indirectly, in newspaper discussions of pending litigation. Such discussions often pervert the course of justice, and never assist its administration.

#### WITH RESPECT TO THE PRIVATE AND PERSONAL INTERESTS OF LAWYERS

29. A beginner at the Bar should set up for himself a high standard.

30. He should live with such moderation as will enable him to pay expenses and keep his mind free.

31. He should not engage in strictly speculative ventures, especially those in which his clients are interested.

32. His ambition should be for the highest possible development of his mind and the attainment of the loftiest position in the profession possible to him.

#### LAWYERS IN RELATION TO THEIR CLIENTS

33. A lawyer should treat his client as he would want to be treated if their relations were reversed.

34. He should hear his client's statement of facts patiently and fully, taking pains to avoid misunderstanding.

35. He should caution his client to be accurate, and explain to him the importance of accuracy.

36. If with a good understanding of the facts, and upon a careful examination of the law, it should appear to



the lawyer that his client is in the wrong, he should so advise the client.

37. He is bound to advise his client of all the facts within his own knowledge in any way affecting the controversy.

38. He should, when a cause seems doubtful, advise his client thereof and let him determine whether to incur the risk and cost of litigation.

39. He should not give confident assurance to his client, but should always advise him of the possibility of an adverse result.

40. As to completed acts the lawyer may in a proper manner defend or sustain his client, but from the beginning of his connection with the matter he must advise and consent to such things only as are lawful.

41. The more powerful and influential the client, the greater is the reason for insisting upon his obedience to the law.

42. If after such advice the client persists in wrongdoing, the lawyer should unhesitatingly withdraw from the case.

43. He should not shrink from advising for or against litigation or compromise, before or after suit brought, as in his judgment shall best accord with his client's interests.

44. Litigation should not be initiated, or a compromise effected, without the client's full knowledge and consent.

45. In dealing with clients unfamiliar with business methods, the lawyer should be especially careful to do nothing tending to impair their confidence.

46. Having undertaken a cause, a lawyer must be faithful and act with an eye single to his client's interests; but he should never forget that he owes also a duty to his God, to his country, to his neighbor and to the law, and

hence, his duty to his client is the duty of righteous, persistent, zealous advocacy, but nothing more.

47. In case of litigation between two regular clients, the attorney should refuse to act for either. In no other way can he be above the suspicion of having limited his attack or defense by reason of the former relation, or of using knowledge therein acquired to make that attack or defense more effective.

48. He should not at any time act for more than one person, or class of persons, in any matter, unless their interests be in all substantial respects clearly identical. Otherwise his conduct will almost certainly be misconstrued by one or the other of the interests represented.

49. He should not ordinarily purchase his client's property, nor acquire any interest in the subject-matter of the litigation which he is conducting.

50. He should not undertake a cause when he has any interest at variance therewith, and should frankly disclose to his client any circumstances which might render his employment undesirable.

51. After taking a cause he should carefully avoid accepting other employment or acquiring interests which are or may become in the slightest degree hostile to his client.

52. If interests adverse to his client are unavoidably devolved upon him, he should, after suitable explanation in a proper manner, withdraw from the cause.

53. After such withdrawal, he should not act in the same or substantially the same matter, either directly or indirectly, so long as his former client's interests may be adversely affected thereby.

54. A client's desire to have additional counsel should be acceded to, unless there be substantial reasons to the contrary.

55. When associate counsel disagree, the client should decide after being fully informed.

56. A lawyer must not reveal his client's secrets.

57. A lawyer should deal frankly with and endeavor to satisfy his client in the matter of his charges for services.

58. Contingent fees lead to many abuses, and should be under the supervision of the Court.

59. If the nature and extent of a lawyer's services cannot be determined in advance, he should explain the uncertainty to his client, and decline to name the amount of his charge.

60. Among the matters to be taken into account in fixing the amount of a charge are the time spent, the novelty and difficulty of the questions involved, the skill required, whether the litigation prevented employment by others, the customary charges of the Bar, the amount in controversy, and whether the fee is contingent or assured.

61. A lawsuit to recover fees should be avoided except in extreme cases.

62. Ordinary services should be rendered to another attorney, or to his family or estate, gratis; but for important services a charge may be made as in the case of an ordinary client.

63. A lawyer should receive no money for services, excepting from his client, or with his client's full knowledge and consent.

64. A retainer for contemplated services which the lawyer's circumstances subsequently prevent him from performing, should be returned to the client.

65. Money collected for a client should not be used by a lawyer, except as expressly directed by the client, until after settlement with the latter, and distribution in accordance therewith.

66. A lawyer should promptly report the receipt of money to his client and at the proper time account therefor, and for all interest which has accrued thereon.

## LAWYERS IN RELATION TO THEIR PROFESSIONAL BROTHERS

67. A lawyer may accept employment against another lawyer. It would be a gross reflection upon the Bar, if one having a cause against a lawyer were unable on that account to secure the aid of competent counsel; but if his relations with the lawyer are cordial, the adverse employment had better not be accepted.

68. Ordinarily he should not accept employment in a case already being conducted by another lawyer, without the latter's consent, unless the latter has been relieved and his fees and expenses paid or secured.

69. He should not discuss the merits of a cause with his adversary's client, or advise an opposing party who has no lawyer.

70. Important agreements affecting a client's rights should not be made without the client's intelligent consent.

71. It is dishonorable to repudiate an agreement relied on by the other side when or because not reduced to writing.

72. A lawyer may accommodate the opposing lawyer to the point at which accommodation begins to injure the client and no further.

73. He may agree to a continuance when it is unlikely that a cause upon the list will be reached.

74. He should preserve an even temper while conferring with opposing counsel and contending against him in Court.

## LAWYERS IN RELATION TO THE COURTS

75. A lawyer should always be respectful in his demeanor towards the Court. The Judges thereof are entitled to respectful treatment by virtue of their office.

76. A lawyer should meet disrespectful treatment on the part of the Judge by firm and temperate remonstrance only.

77. It is the duty of lawyers to encourage and support the Judges in their efforts to compel adherence to the principles of right conduct.

78. A lawyer should favor and not oppose the disbarment of those who have brought dishonor upon the profession by a deliberate breach of duty.

79. He should so regulate his conduct as to maintain among the people a respect for the law and confidence in the integrity of the Judges who administer it.

80. He should train himself to regard the Judges on the Bench as actuated always and only by good motives, and should not lightly permit any suspicion to the contrary to enter his mind, or cherish it being there.

81. He should not by word or deed pretend that he has personal influence with the Judge, and should always discourage the suggestion that others have.

82. He may have cordial personal relations with the Judge, but they should be maintained without pretension or display.

83. A lawyer must not intentionally deceive the Court.

84. He must not only avoid falsehood; he must be careful not to misquote the law or to misstate facts, always remembering that an inaccurate statement accepted and acted upon is as injurious in its effect as deliberate falsehood.

85. When a fact is not recent, he should not speak confidently concerning it, before verifying his recollection by reference to records or writings, if there be any, or by comparison of his impressions with conceded facts.

86. A lawyer finding himself to have made an inaccurate statement, should at once go to both Court and opposing counsel and make correction.

87. It is highly disreputable to state in an opening or offer of proof what the lawyer knows is inadmissible or he cannot prove.

88. It is one of the duties of a lawyer to be industrious and painstaking in the preparation of matters to be brought before the Court.

89. A lawyer should cultivate the art of brevity in his addresses to Court and jury. That much, at least, he owes to the Court, to the client and to the public.

#### JUDGES IN AND OUT OF COURT

90. A Judge should not engage in political counsels and activities, or be prominently identified with business interests.

91. He at once ceases to be an upright Judge who permits the scales of justice to be disturbed in the slightest degree by political considerations, popular clamor, or anything else than the law applicable to the cause before him.

92. Not even a personal belief in the equity of a particular claim or defense can justify him in disturbing the certainty of the law.

93. He ought to be diligent in his business.

94. He should never be or even appear to be inattentive. It is the right of the attorney and of his client to have the attention of the Court.

95. He should be modest in his demeanor.

96. He should be courteous to attorneys—especially to younger members of the profession.

97. He may have dear friends among the lawyers, but he should neither permit his conduct in Court to disclose that fact, nor his companionship with them to be ostentatious.

98. He should not talk with lawyers about their pending cases, unless both sides are represented.

99. He may ask questions of the lawyer arguing, but in so doing he should avoid all appearance of bias.

100. In or out of Court a Judge should so bear himself as to maintain respect for the law, and should avoid even in minor matters a violation or seeming violation of the law which on the Bench it is his duty to enforce against others.

101. He should reflect upon and imbue his mind with a full and accurate understanding of the inter-related constitutional mandates against sale, denial, or delay of justice, always remembering that between denying or delaying justice and selling justice, there is no substantial difference to the party injured, the cases being discriminable only by the presence or absence of reward to the Judge.

#### RESERVATION

102. It is not possible to particularize all the duties of the lawyer in the varying phases of litigation and in all the relations of professional life, and hence the enumeration of the foregoing duties should not be construed to deny the existence and importance of others not specifically mentioned herein. It is believed, however, that when other ethical questions arise, he who has ordered his life in accordance with the precepts hereinbefore enumerated will have comparatively little difficulty in finding the correct ethical answer thereto.

### APPENDIX

#### AMERICAN BAR ASSOCIATION'S CANONS OF ETHICS

##### I

##### PREAMBLE

In America, where the stability of Courts and of all departments of government rests upon the approval of the people, it is peculiarly essential that the system for establish-

ing and dispensing justice be developed to a high point of efficiency and so maintained that the public shall have absolute confidence in the integrity and impartiality of its administration. The future of the Republic, to a great extent, depends upon our maintenance of justice pure and unsullied. It cannot be so maintained unless the conduct and the motives of the members of our profession are such as to merit the approval of all just men.

## II

### THE CANONS OF ETHICS

No Code or set of rules can be framed which will particularize all the duties of the lawyer in the varying phases of litigation or in all the relations of professional life. The following Canons of Ethics are adopted by the American Bar Association as a general guide, yet the enumeration of particular duties should not be construed as a denial of the existence of others equally imperative, though not specifically mentioned:

1. *The Duty of the Lawyer to the Courts.*—It is the duty of the lawyer to maintain towards the courts a respectful attitude, not for the sake of the temporary incumbent of the judicial office, but for the maintenance of its supreme importance. Judges, not being wholly free to defend themselves, are peculiarly entitled to receive the support of the Bar against unjust criticism and clamor. Whenever there is proper ground for serious complaint of a judicial officer, it is the right and duty of the lawyer to submit his grievances to the proper authorities. In such cases, but not otherwise, such charges should be encouraged and the person making them should be protected.

2. *The Selection of Judges.*—It is the duty of the Bar to endeavor to prevent political considerations from outweighing judicial fitness in the selection of judges. It should protest earnestly and actively against the appointment or election of those who are unsuitable for the Bench; and it should strive to have elevated thereto only those willing to forego other employments whether



of a business, political or other character which may embarrass their free and fair consideration of questions before them for decision. The aspiration of lawyers for judicial position should be governed by an impartial estimate of their ability to add honor to the office and not by a desire for the distinction the position may bring to themselves.

3. *Attempts to Exert Personal Influence on the Court.*—Marked attention and unusual hospitality on the part of a lawyer to a judge, uncalled for by the personal relations of the parties, subject both the judge and the lawyer to misconstructions of motive and should be avoided. A lawyer should not communicate or argue privately with the judge as to the merits of a pending cause, and he deserves rebuke and denunciation for any device or attempt to gain from a judge special personal consideration or favor. A self-respecting independence in the discharge of professional duty, without denial or diminution of the courtesy and respect due the judge's station, is the only proper foundation for cordial personal and official relations between Bench and Bar.

4. *When Counsel for an Indigent Prisoner.*—A lawyer assigned as counsel for an indigent prisoner ought not to ask to be excused for any trivial reason, and should always exert his best efforts in his behalf.

5. *The Defense or Prosecution of Those Accused of Crime.*—It is the right of the lawyer to undertake the defense of a person accused of crime, regardless of his personal opinion as to the guilt of the accused; otherwise innocent persons, victims only of suspicious circumstances, might be denied proper defense. Having undertaken such defense, the lawyer is bound by all fair and honorable means to present every defense that the law of the land permits, to the end that no person may be deprived of life or liberty but by due process of law.

The primary duty of a lawyer engaged in public prosecution is not to convict, but to see that justice is done. The suppression of facts or the secreting of witnesses capable of establishing the innocence of the accused is highly reprehensible.

6. *Adverse Influences and Conflicting Interests.*—It is the duty of a lawyer at the time of retainer to disclose to the client all the circumstances of his relations to the parties, and any interest in or connection with the controversy which might influence the client in the selection of counsel.

It is unprofessional to represent conflicting interests, except by express consent of all concerned given after a full disclosure of the facts. Within the meaning of this canon, a lawyer represents conflicting interests when, in behalf of one client, it is his duty to contend for that which duty to another client requires him to oppose.

The obligation to represent the client with undivided fidelity and not to divulge his secrets or confidences forbids also the subsequent acceptance of retainers or employment from others in matters adversely affecting any interest of the client with respect to which confidence has been reposed.

7. *Professional Colleagues and Conflicts of Opinion.*—A client's proffer of assistance of additional counsel should not be regarded as evidence of want of confidence, but the matter should be left to the determination of the client. A lawyer should decline association as colleague if it is objectionable to the original counsel, but if the lawyer first retained is relieved, another may come into the case.

When lawyers jointly associated in a cause cannot agree as to any matter vital to the interest of the client, the conflict of opinion should be frankly stated to him for his final determination. His decision should be accepted unless the nature of the difference makes it impracticable for the lawyer whose judgment has been overruled to co-operate effectively. In this event it is his duty to ask the client to relieve him.

Efforts, direct or indirect, in any way to encroach upon the business of another lawyer, are unworthy of those who should be brethren at the Bar; but nevertheless, it is the right of any lawyer without fear or favor, to give proper advice to those seeking relief against unfaithful or neglectful counsel, generally after communication with the lawyer of whom the complaint is made.

8. *Advising Upon the Merits of a Client's Cause.*—A lawyer should endeavor to obtain full knowledge of his client's cause before advising thereon, and he is bound to give a candid opinion of the merits and probable result of pending or contemplated litigation. The miscarriages to which justice is subject, by reason of surprises and disappointments in evidence and witnesses, and through mistakes of juries and errors of courts, even though only occasional, admonish lawyers to beware of bold and confident assurances to clients, especially where the employment may depend upon such assurance. Whenever the controversy will admit of fair

adjustment, the client should be advised to avoid or to end the litigation.

9. *Negotiations With Opposite Party.*—A lawyer should not in any way communicate upon the subject of controversy with a party represented by counsel; much less should he undertake to negotiate or compromise the matter with him, but should deal only with his counsel. It is incumbent upon the lawyer most particularly to avoid everything that may tend to mislead a party not represented by counsel, and he should not undertake to advise him as to the law.

10. *Acquiring Interest in Litigation.*—The lawyer should not purchase any interest in the subject-matter of the litigation which he is conducting.

11. *Dealing With Trust Property.*—Money of the client or other trust property coming into the possession of the lawyer, should be reported promptly, and except with the client's knowledge and consent should not be commingled with his private property or be used by him.

12. *Fixing the Amount of the Fee.*—In fixing fees, lawyers should avoid charges which overestimate their advice and services, as well as those which undervalue them. A client's ability to pay cannot justify a charge in excess of the value of the service, though his poverty may require a less charge, or even none at all. The reasonable requests of brother lawyers, and of their widows and orphans without ample means, should receive special and kindly consideration.

In determining the amount of the fee, it is proper to consider: (1) the time and labor required, the novelty and difficulty of the questions involved and the skill requisite properly to conduct the cause; (2) whether the acceptance of employment in the particular case will preclude the lawyer's appearance for others in cases likely to arise out of the transaction, and in which there is a reasonable expectation that otherwise he would be employed, or will involve the loss of other business while employed in the particular case or antagonisms with other clients; (3) the customary charges of the Bar for similar services; (4) the amount involved in the controversy and the benefits resulting to the client from the services; (5) the contingency or the certainty of the compensation; and (6) the character of the employment, whether casual or for an established and constant client. No one of these consider-

ations in itself is controlling. They are mere guides in ascertaining the real value of the service.

In fixing fees it should never be forgotten that the profession is a branch of the administration of justice and not a mere money-getting trade.

13. *Contingent Fees.*—Contingent fees lead to many abuses, and where sanctioned by law should be under the supervision of the court.

14. *Suing a Client for a Fee.*—Controversies with clients concerning compensations are to be avoided by the lawyer so far as shall be compatible with his self-respect and with his right to receive reasonable recompense for his services; and lawsuits with clients should be resorted to only to prevent injustice, imposition or fraud.

15. *How Far a Lawyer May Go in Supporting a Client's Cause.*—Nothing operates more certainly to create or to foster popular prejudice against lawyers as a class, and to deprive the profession of that full measure of public esteem and confidence which belongs to the proper discharge of its duties, than does the false claim, often set up by the unscrupulous in defense of questionable transactions, that it is the duty of the lawyer to do whatever may enable him to succeed in winning his client's cause.

It is improper for a lawyer to assert in argument his personal belief in his client's innocence or in the justice of his cause.

The lawyer owes "entire devotion to the interest of the client, warm zeal in the maintenance and defense of his rights and the exertion of his utmost learning and ability," to the end that nothing be taken or be withheld from him, save by the rules of law, legally applied. No fear of judicial disfavor or public unpopularity should restrain him from the full discharge of his duty. In the judicial forum the client is entitled to the benefit of any and every remedy and defense that is authorized by the law of the land, and he may expect his lawyer to assert every such remedy or defense. But it is steadfastly to be borne in mind that the great trust of the lawyer is to be performed within and not without the bounds of the law. The office of attorney does not permit, much less does it demand of him for any client, violation of law or any manner of fraud or chicanery. He must obey his own conscience and not that of his client.

16. *Restraining Clients from Improprieties.*—A lawyer should use his best efforts to restrain and to prevent his clients from

doing those things which the lawyer himself ought not to do, particularly with reference to their conduct towards courts, judicial officers, jurors, witnesses and suitors. If a client persist in such wrongdoing the lawyer should terminate their relation.

17. *Ill Feeling and Personalities Between Advocates.*—Clients, not lawyers, are the litigants. Whatever may be the ill feeling existing between clients, it should not be allowed to influence counsel in their conduct and demeanor toward each other or toward suitors in the case. All personalities between counsel should be scrupulously avoided. In the trial of a cause it is indecent to allude to the personal history or the personal peculiarities and idiosyncrasies of counsel on the other side. Personal colloquies between counsel which cause delay and promote unseemly wrangling should also be carefully avoided.

18. *Treatment of Witnesses and Litigants.*—A lawyer should always treat adverse witnesses and suitors with fairness and due consideration, and he should never minister to the malevolence or prejudices of a client in the trial or conduct of a cause. The client cannot be made the keeper of the lawyer's conscience in professional matters. He has no right to demand that his counsel shall abuse the opposite party or indulge in offensive personalities. Improper speech is not excusable on the ground that it is what the client would say if speaking in his own behalf.

19. *Appearance of Lawyer as Witness for His Client.*—When a lawyer is a witness for his client, except as to merely formal matters, such as the attestation or custody of an instrument and the like, he should leave the trial of the case to other counsel. Except when essential to the ends of justice, a lawyer should avoid testifying in court in behalf of his client.

20. *Newspaper Discussion of Pending Litigation.*—Newspaper publications by a lawyer as to pending or anticipated litigation may interfere with a fair trial in the courts and otherwise prejudice the due administration of justice. Generally they are to be condemned. If the extreme circumstances of a particular case justify a statement to the public, it is unprofessional to make it anonymously. An *ex parte* reference to the facts should not go beyond quotation from the records and papers on file in the court; but even in extreme cases it is better to avoid any *ex parte* statement.

21. *Punctuality and Expedition.*—It is the duty of the lawyer not only to his client, but also to the courts and to the public to be

punctual in attendance, and to be concise and direct in the trial and disposition of causes.

22. *Candor and Fairness.*—The conduct of the lawyer before the court and with other lawyers should be characterized by candor and fairness.

It is not candid or fair for the lawyer knowingly to misquote the contents of a paper, the testimony of a witness, the language or the argument of opposing counsel, or the language of a decision or a text-book; or with knowledge of its invalidity, to cite as authority a decision that has been overruled, or a statute that has been repealed; or in argument to assert as a fact that which has not been proved, or in those jurisdictions where a side has the opening and closing arguments to mislead his opponent by concealing or withholding positions in his opening argument upon which his side then intends to rely.

It is unprofessional and dishonorable to deal other than candidly with the facts in taking the statements of witnesses, in drawing affidavits and other documents, and in the presentation of causes.

A lawyer should not offer evidence, which he knows the court should reject, in order to get the same before the jury by argument for its admissibility, nor should he address to the judge arguments upon any point not properly calling for determination by him. Neither should he introduce into an argument, addressed to the court, remarks or statements intended to influence the jury or bystanders.

These and all kindred practices are unprofessional and unworthy of an officer of the law charged, as is the lawyer, with the duty of aiding in the administration of justice.

23. *Attitude Toward Jury.*—All attempts to curry favor with juries by fawning, flattery or pretended solicitude for their personal comfort are unprofessional. Suggestions of counsel, looking to the comfort or convenience of jurors, and propositions to dispense with argument, should be made to the court out of the jury's hearing. A lawyer must never converse privately with jurors about the case; and both before and during the trial he should avoid communicating with them, even as to matters foreign to the cause.

24. *Right of Lawyer to Control the Incidents of the Trial.*—As to incidental matters pending the trial, not affecting the merits of the cause, or working substantial prejudice to the rights of the

client, such as forcing the opposite lawyer to trial when he is under affliction or bereavement; forcing the trial on a particular day to the injury of the opposite lawyer when no harm will result from a trial at a different time; agreeing to an extension of time for signing a bill of exceptions, cross interrogatories and the like, the lawyer must be allowed to judge. In such matters no client has a right to demand that his counsel shall be illiberal, or that he do anything therein repugnant to his own sense of honor and propriety.

25. *Taking Technical Advantage of Opposite Counsel; Agreements With Him.*—A lawyer should not ignore known customs or practice of the Bar or of a particular court, even when the law permits, without giving timely notice to the opposing counsel. As far as possible, important agreements, affecting the rights of clients, should be reduced to writing; but it is dishonorable to avoid performance of an agreement fairly made because it is not reduced to writing, as required by rules of court.

26. *Professional Advocacy Other Than Before Courts.*—A lawyer openly and in his true character may render professional services before legislative or other bodies, regarding proposed legislation and in advocacy of claims before departments of government, upon the same principles of ethics which justify his appearance before the courts; but it is unprofessional for a lawyer so engaged to conceal his attorneyship, or to employ secret personal solicitations, or to use means other than those addressed to the reason and understanding to influence action.

27. *Advertising, Direct or Indirect.*—The most worthy and effective advertisement possible, even for a young lawyer, and especially with his brother lawyers, is the establishment of a well-merited reputation for professional capacity and fidelity to trust. This cannot be forced, but must be the outcome of character and conduct. The publication or circulation of ordinary simple business cards, being a matter of personal taste or local custom, and sometimes of convenience, is not *per se* improper. But solicitation of business by circulars or advertisements, or by personal communications or interviews, not warranted by personal relations, is unprofessional. It is equally unprofessional to procure business by indirection through touters of any kind, whether allied real estate firms or trust companies advertising to secure the drawing of

deeds or wills or offering retainers in exchange for executorships or trusteeships to be influenced by the lawyer. Indirect advertisement for business by furnishing or inspiring newspaper comments concerning causes in which the lawyer has been or is engaged, or concerning the manner of their conduct, the magnitude of the interests involved, the importance of the lawyer's positions, and all other like self-laudation, defy the traditions and lower the tone of our high calling, and are intolerable.

28. *Stirring up Litigation, Directly or Through Agents.*—It is unprofessional for a lawyer to volunteer advice to bring a lawsuit, except in rare cases where ties of blood, relationship or trust makes it his duty to do so. Stirring up strife and litigation is not only unprofessional, but it is indictable at common law. It is disreputable to hunt up defects in titles or other causes of action and inform thereof in order to be employed to bring suit, or to breed litigation by seeking out those with claims for personal injuries or those having any other grounds of action in order to secure them as clients, or to employ agents or runners for like purposes, or to pay or reward, directly or indirectly, those who bring or influence the bringing of such cases to his office, or to remunerate policemen, court or prison officials, physicians, hospital *attachés* or others who may succeed, under the guise of giving disinterested friendly advice, in influencing the criminal, the sick and the injured, the ignorant or others, to seek his professional services. A duty to the public and to the profession devolves upon every member of the Bar, having knowledge of such practices upon the part of any practitioner, immediately to inform thereof to the end that the offender may be disbarred.

29. *Upholding the Honor of the Profession.*—Lawyers should expose without fear or favor before the proper tribunals corrupt or dishonest conduct in the profession, and should accept without hesitation employment against a member of the Bar who has wronged his client. The counsel upon the trial of a cause in which perjury has been committed owe it to the profession and to the public to bring the matter to the knowledge of the prosecuting authorities. A lawyer should aid in guarding the Bar against the admission to the profession of candidates unfit or unqualified because deficient in either moral character or education. He should strive at all times to uphold the honor and to maintain the dignity of the profession and to improve not only the law but the administration of justice.



30. *Justifiable and Unjustifiable Litigations.*—The lawyer must decline to conduct a civil cause or to make a defense when convinced that it is intended merely to harass or to injure the opposite party or to work oppression or wrong. But otherwise it is his right, and having accepted retainer, it becomes his duty to insist upon the judgment of the court as to the legal merits of his client's claim. His appearance in court should be deemed equivalent to an assertion on his honor that in his opinion his client's case is one proper for judicial determination.

31. *Responsibility for Litigation.*—No lawyer is obliged to act either as adviser or advocate for every person who may wish to become his client. He has the right to decline employment. Every lawyer upon his own responsibility must decide what business he will accept as counsel, what causes he will bring into court for plaintiffs, what cases he will contest in courts for defendants. The responsibility for advising questionable transactions, for bringing questionable suits, for urging questionable defenses, is the lawyer's responsibility. He cannot escape it by urging as an excuse that he is only following his client's instructions.

32.—*The Lawyer's Duty in Its Last Analysis.*—No client, corporate or individual, however powerful, nor any cause, civil or political, however important, is entitled to receive, nor should any lawyer render, any service or advice involving disloyalty to the law whose ministers we are, or disrespect of the judicial office, which we are bound to uphold, or corruption of any person or persons exercising a public office or private trust, or deception or betrayal of the public. When rendering any such improper service or advice, the lawyer invites and merits stern and just condemnation. Correspondingly, he advances the honor of his profession and the best interests of his client when he renders service or gives advice tending to impress upon the client and his undertaking exact compliance with the strictest principles of moral law. He must also observe and advise his client to observe the statute law, though until a statute shall have been construed and interpreted by competent adjudication, he is free and is entitled to advise as to its validity and as to what he conscientiously believes to be its just meaning and extent. But above all, a lawyer will find his highest honor in a deserved reputation for fidelity to private trust and to public duty, as an honest man and as a patriotic and loyal citizen.

## III

## OATH OF ADMISSION

The general principles which should ever control the lawyer in the practice of his profession are clearly set forth in the following Oath of Admission to the Bar, formulated upon that in use in the State of Washington, and which conforms in its main outlines to the "duties" of lawyers as defined by statutory enactments in that and many other States of the Union\*—duties which they are sworn on admission to obey and for the wilful violation of which disbarment is provided:

*I DO SOLEMNLY SWEAR:*

*I will support the Constitution of the United States and the Constitution of the State of.....*

*I will maintain the respect due to Courts of Justice and judicial officers;*

*I will not counsel or maintain any suit or proceeding which shall appear to me to be unjust, nor any defense except such as I believe to be honestly debatable under the law of the land;*

*I will employ for the purpose of maintaining the causes confided to me such means only as are consistent with truth and honor, and will never seek to mislead the Judge or Jury by any artifice or false statement of fact or law;*

*I will maintain the confidence and preserve inviolate the secrets of my client, and will accept no compensation in connection with his business except from him or with his knowledge and approval;*

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\*Alabama, California, Georgia, Idaho, Indiana, Iowa, Minnesota, Mississippi, Nebraska, North Dakota, Oklahoma, Oregon, South Dakota, Utah, Washington and Wisconsin. The oaths administered on admission to the Bar in all the other States require the observance of the highest moral principle in the practice of the profession, but the duties of the lawyer are not as specifically defined by law as in the States named.

*I will abstain from all offensive personality, and advance no fact prejudicial to the honor or reputation of a party or witness, unless required by the justice of the cause with which I am charged;*

*I will never reject, from any consideration personal to myself, the cause of the defenseless or oppressed, or delay any man's cause for lucre or malice. SO HELP ME GOD.*

We commend this form of oath for adoption by the proper authorities in all the States and Territories.

THE SECRETARY: Since the beginning of this session, I have had handed to me a minority report. It is very brief, and in view of the fact that it is not in print and distributed, possibly it had better be read.

The Secretary then read the

### **MINORITY REPORT OF THE SPECIAL COMMITTEE ON LEGAL ETHICS**

*To the Pennsylvania Bar Association:*

Believing that the "Canons of Ethics" adopted and promulgated by the American Bar Association and endorsed by the Bar Associations of many States, fairly and sufficiently fill the requirements of such a document; maintaining that there are strong reasons why this Association should rather adopt a Code of such merit, authority and wide acceptance, than insist upon one of its own, covering practically the same ground; and failing to agree with the majority of his colleagues, either in their preference for the Code reported by them to that above mentioned, or in their opinion as to the desirability or paramount importance of its epigrammatic form of expression, the undersigned asks leave to file this, his minority report, favoring the adoption by this Association of the "Canons of Ethics" of the

American Bar Association in the place of the Code of Ethics suggested by the majority of this Committee.

Respectfully submitted,

EDWIN Z. SMITH.

THE SECRETARY: I have also been handed a paper containing the views of Mr. Samuel Dickson upon the question as to whether or not it is desirable to adopt the National statement of Professional Ethics. The paper is as follows:

VIEWS OF MR. SAMUEL DICKSON

UPON THE QUESTION WHETHER OR NOT IT IS DESIRABLE FOR  
THE PENNSYLVANIA BAR ASSOCIATION TO ADOPT THE  
NATIONAL STATEMENT OF PROFESSIONAL ETHICS

[Mr. Dickson is abroad, and this letter is reprinted from the 1909 Pennsylvania Bar Association Report, pp. 185-6, for the information of those not present at the 1909 Meeting of the Association.]

PHILADELPHIA, *June 28, 1909.*

HON. WM. H. STAAKE,  
Care of Bedford Springs Hotel,  
Bedford Springs, Pa.

MY DEAR JUDGE STAAKE:

\* \* \* As I am, unfortunately, unable to attend the annual meeting, I take the liberty of troubling you with a line.

We all agree that we should avoid instituting comparisons which would even tend to suggest any thought of disparagement of their draft [Pa. Bar Assoc. Committee's draft]. Both Committees [*i. e.*, of the Pennsylvania Bar Association and American Bar Association] were composed of men of great ability and experience, and every member of their Committee undoubtedly gave to the subject careful and earnest consideration. It is without any thought, therefore, of criticising in any way the work of the Committee

of our own Association, that I take the liberty of suggesting that, unless there be some fatal ground of objection to what has been agreed upon by the American Bar Association and endorsed by so many State Associations, it ought to be accepted by our own Association.

It is a case in which mere uniformity is in itself a good, and it is most desirable that the rules recommended by the most important Association of American lawyers ever organized, should, if possible be endorsed and ratified by every State organization.

In this instance, too, it is peculiarly fitting that Pennsylvania should heartily coöperate with other State Associations in giving such endorsement. The acceptance of Judge Sharswood's treatise was, in some respects, the most striking tribute ever paid to our great Chief Justice, and the action of General Hubbard of the New York Bar in defraying the cost of reprinting his essay, would render it specially ungracious on the part of Pennsylvania lawyers to take any action, which might be thought to indicate a lack of appreciation of the work of the American Bar Association. It is one of the greatest merits of the profession, that where two or more lawyers get together, there will always be differences of opinion; and it is not to be expected that the members of our own Committee should be unable to find ground for criticism, or even censure, in the canons as formulated by the Committee of the American Bar Association; but, to say that they are not perfect is simply to say that they are human.

Speaking for myself, they seem to me to constitute a most admirable compendium, worthy of our cordial adoption, but even if dissatisfied with particular phrases or paragraphs, I should still think that the framing of a body of rules, which could secure the approval of representatives of all the States, and the ratification by so many State Associations, one of the most notable and valuable achievements of the American Bar. As such it ought to be wel-

come, and I hope we will unite with other representative bodies, so that these canons may come to be understood by the profession and the public as the common creed of the American Bar.

I have the honor to remain, dear Judge Staake, with great respect,

Very truly yours,

SAMUEL DICKSON.

Mr. Dickson on July 1, 1908, also wrote a member of the American Bar Association Committee:

"It is of the highest importance that a single Code should be adopted throughout the country; \* \* \* it will be possible, I hope, to induce the Pennsylvania Bar Association to accept the Code which may be finally adopted by the American Bar Association. For the sake of uniformity, serious concessions may well be made."

OPINION OF CHIEF JUSTICE SIMEON E. BALDWIN, PROFESSOR OF CONSTITUTIONAL LAW AT YALE, AND FORMER PRESIDENT OF THE INTERNATIONAL LAW ASSOCIATION

[Reprinted from a review of the American Bar Association's Canons of Ethics in the November, 1908, *Columbia Law Review*, 8 C. L. R. 541.]

"It might be too high praise to say that this code, as finally approved, could not have been made better. But the question for the American lawyer is not whether a more perfect one could be made. It is whether this code, having been framed after long deliberation and extensive correspondence by a capable committee representing all parts of the United States, and adopted with practical unanimity after full opportunity for discussion by the American Bar Association, ought not, as a whole, to receive his support.

*"If this code is accepted by the Bar Association of every State as a fair general statement of the main duties of members of the legal profession, a great purpose will be well*

*accomplished.* An authoritative criterion will be supplied, by which every lawyer can be safely guided, when he is in doubt as to the conduct he should pursue in respect to any of the questions which oftenest prove a source of perplexity. The law student will have a mentor always at hand. The Courts will hesitate less in enforcing the discipline of the Bar, since professional misconduct will be, more than ever before, a sinning against the light."

THE AMERICAN AND PENNSYLVANIA BAR ASSOCIATIONS'  
COMMITTEES ON UNIFORMITY *in re* CANONS OF ETHICS  
VIEWS OF THE AMERICAN BAR ASSOCIATION COMMITTEE:

In 1906: It reported "Action by the National Association will also tend to develop uniformity between the various States, not only in form and method of statement, but also in application, and this we deem of practical importance. Indeed, the ultimate measure of success of this movement to keep the Bar true to its pristine glory will be largely enhanced by harmony between the different States and by the moral support given not only by the Bars of the various jurisdictions to each other, but by the courts of the sovereign States one to the other." (1906 A. B. A. Rep. 603.)

THE PENNSYLVANIA BAR ASSOCIATION COMMITTEE ON  
THE SUBJECT:

In 1907: It adopted the above quoted 1906 A. B. A. report as its own, and emphasized "*the great desirability of practical conformity of action by the State Association with that of the National Association in order to secure all possible uniformity and reciprocal aid and support.*" It also recommended that the Pennsylvania Bar Association "extend to the American Bar Association the assurance of the hearty sympathy and coöperation of this Association," etc. (1907 Pa. B. A. Rep. 294), and this action was in due course reported to the American Bar Association. (1907 A. B. A. Rep. 677.)

In 1908: The Pennsylvania Committee again asserted a "*desire to have a code uniform with that of the American Bar Association.*" Nevertheless, while declaring that it was "*not disagreeing as to the substance of the work which the Committee of that Association has done,*" it said: "Your Committee conceives that the cumbersomeness of the old forms of setting forth ethical precepts should be departed from. It seems to us that each paragraph of a code of ethics should embrace but one subject, *which should be stated epigrammatically.*" (1908 Pa. B. A. Rep. 200.)

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*The American Bar Association Committee consulted every member of the Pennsylvania Bar Association, sending to each in May, 1908, a copy of the preliminary draft for the canons, with a request to each to aid the Committee, whether a member of the American Bar Association or not, with criticisms and suggestions in the preparation of the final draft for the canons—and a large number responded, but not one suggested an epigrammatic revision nor did a single member of the Pennsylvania Committee do so.*

The American Bar Association's Canons are grounded upon the work of one of Pennsylvania's greatest Chief Justices, our revered George Sharswood. And as an aid—as the most important aid in the formulation of the canons and in securing their adoption the Association reprinted *Sharswood's Ethics* and accorded it a place as a distinct numbered volume (No. XXXII) in its series of annual *Reports*—the only work ever accorded such a distinction. It may therefore be affirmed that Pennsylvania has had a more dominant influence in the formulation of the American Bar Association Canons of Ethics than any other State.

Since their adoption by the American Bar Association in August, 1908, they have also been adopted by the Bar Associations of the following States, and doubtless by others from which returns have not been received:



Maine	South Dakota
Iowa	North Dakota
Florida	Ohio
Tennessee	New York
Connecticut (with alterations in the arrangement)	New Jersey (at Atlantic City, June 17, 1910)
Kansas	Washington
Indiana	Nebraska
	Vermont

Also by Bar Association City of Boston (there being at the time no State Bar Association in Massachusetts).

Prior to the American Bar Association acting, the Bar Associations of the following States had Canons of Ethics substantially alike, and which the draftsman of same had grounded upon *Sharswood's Ethics* and David Paul Brown's *Golden Rules*:

Alabama	Wisconsin
Georgia	West Virginia
Virginia	Maryland
Michigan	Kentucky
Colorado	Missouri
North Carolina	Mississippi

L. H. A. 6/28/'10.

THE PRESIDENT: Is there any motion as to these various reports?

JOHN W. WETZEL, Cumberland: I move that these reports be received, and taken up later in our sessions.

Duly seconded, and agreed to.

THE PRESIDENT: Next in order is the report of the Special Committee on Constitution of Courts in Pennsylvania.

HAROLD M. MCCLURE, *Chairman*, Union: Our brief supplemental report is in print, and the subject is before the Association.

## REPORT OF THE SPECIAL COMMITTEE ON CONSTITUTION OF COURTS IN PENNSYLVANIA

*To the Members of the Pennsylvania Bar Association:*

GENTLEMEN: At the meeting of the Association held at Bedford Springs, in June, 1909, your Committee was requested to consult with the local Bar Associations of the State, and ask their judgment upon the questions presented in the arguments of the members on the motion to adopt the report of your Committee.

*First.*—Whether or not it is wise to consolidate the Supreme and Superior Courts, and have the Court sit in two divisions; or

*Second.*—To consolidate it as one Court; or

*Third.*—To retain the present constitution of the Courts.

A circular letter, of which the following is a copy, was mailed on the twenty-sixth day of February, 1910, to the President or Secretary of each of the sixty-four Bar Associations of the State:

LEWISBURG, PA., February 26, 1910.

DEAR SIR:—At the last Annual Meeting of the Pennsylvania Bar Association, the Special Committee on Constitution of Courts in Pennsylvania gave its reasons for recommending the adoption of the following resolutions embraced in its Report to the Association in 1908:

- Resolved,* 1. That the Superior Court be abolished.
2. That the Judges of the Supreme Court be increased to fourteen by the transfer of the Superior Court Judges thereto.
3. That the Judges sit in two divisions of seven Judges each, at the seat of government.
4. That where there is a dissenting opinion the cause shall be put down for argument before the full Bench or Court *in banc*.
5. That writs of error issued to the inferior Courts be returnable at regular stated return days without regard to counties.

After considerable discussion of the resolutions by members of the Association the report was recommitted, with the request

that the Committee consult, in writing, with the various local Associations throughout the State, and ask their judgment upon the three points presented in the arguments:

*First.*—Whether or not it is wise to consolidate the Court and have it sit in two divisions; or

*Second.*—To consolidate it as one Court; or

*Third.*—To retain the present constitution of the Courts.

This letter is written in compliance with the above request. Will you kindly present these questions to your Bar Association at its next meeting, have it pass judgment upon them, and report to this Committee as soon thereafter as you can conveniently do so?

You will find the report of the Special Committee on pages 186-194, and the arguments for and against its recommendations on pages 269-295 of the Fifteenth Annual Report of the Pennsylvania Bar Association.

Very truly yours,

HAROLD M. McCLURE,  
*Chairman.*

The Associations of Allegheny, Lancaster and Philadelphia reported in favor of retaining the present constitution of the Courts. The Bradford County Association would consolidate the Supreme and Superior Courts as one Court, and the Associations of Clearfield, Erie, Forest, Lebanon and Union favor the consolidation of the Courts, and would have the Court sit in two divisions, as recommended by your Committee. Committees were appointed by the Delaware and Warren Associations, but no further action has been reported to us. The Cameron County Association was unable to agree upon the questions and, while the Lebanon County Association considered them, no formal action was taken. The Secretary of the Jefferson County Association reported the members in favor of your Committee's recommendations. Clearfield and Union Associations favor at least two stated return days yearly for each county. If the other fifty Associations have taken up the questions, they have made no report thereof to your Committee.

Majority and minority reports were made by the Committee on Judicial Procedure of the Law Association of Philadelphia to the Association at its stated meeting on January 7, 1910, which are in print and can be had by any of the members of our Association. The grounds upon which their conclusions are based are stated by the majority and minority at some length, and their reports are well worth the reading by anyone interested in the questions involved.

Respectfully submitted,

HAROLD M. McCLURE, *Chairman.*

CHARLES M. CLEMENT,

FRANK S. MCGIRR,

H. S. P. NICHOLS,

HENRY C. NILES,

*Committee.*

THE SECRETARY: I would like to state, possibly with the approval of Judge McClure, that a number of copies of the report of last year have been brought to this meeting, and also copies of the Majority Report and Minority Report of the Committee of the Law Association of Philadelphia, and will be accessible either before or at the time of the discussion on the report of the Committee.

[REPORTS OF COMMITTEE ON JUDICIAL PROCEDURE OF THE  
LAW ASSOCIATION OF PHILADELPHIA\*]

I. MAJORITY REPORT

PHILADELPHIA, May 12, 1910.

*To the Chancellor and Members of The Law Association of Philadelphia.*

GENTLEMEN: Your Committee to whom was referred the communication from Hon. Harold M. McClure, Chairman of the Special Committee on the Constitution of Courts

\*The reports of the Committee of the Law Association of Philadelphia are here reprinted for convenience of reference.

in Pennsylvania, of the Pennsylvania Bar Association, relating to the existing system with respect to the Supreme Court and Superior Court, and asking the judgment of this Association upon the three following points, viz.:

*First.*—Whether or not it is wise to consolidate the Court and have it sit in two divisions; or

*Second.*—To consolidate as one Court; or

*Third.*—To retain the present constitution of the Courts;

respectfully reports thereon as follows:

The occasion for this communication from Judge McClure was the action taken by the Pennsylvania Bar Association at its meeting in June of last year. At that time the report of the Committee, of which Judge McClure is the Chairman, was presented to the Association, recommending the adoption of the following resolutions:

*Resolved*, 1. That the Superior Court be abolished.

*Resolved*, 2. That the Judges of the Supreme Court be increased to fourteen by the transfer of the Superior Court Judges thereto.

*Resolved*, 3. That the Judges sit in two divisions of seven Judges each at the seat of government.

*Resolved*, 4. That where there is a dissenting opinion the cause shall be put down for argument before the full Bench or Court *in banc*.

*Resolved*, 5. That writs of error issued to the inferior Courts be returnable at regular stated return days without regard to counties.

The report of this Committee can be found on page 186 in the Fifteenth Annual Report of the Pennsylvania Bar Association.

After discussion the report was recommitted to the Special Committee, with a request that the judgment of the various local Associations throughout the State should be ascertained preparatory to the consideration of the question at the next meeting of the Bar Association. This dis-

cussion can be found on page 269 of the Annual Report of the Pennsylvania Bar Association above referred to. The reasons which were urged for the abolition of the Superior Court were:

1. Because its judgments are not decisive of the law, and lead to uncertainty and confusion.
2. That by allowing a series of appeals from Court to Court the law may be established by a small number of Judges against nearly the whole current of judicial opinion.
3. That as the decisions of the Court are not final, a delay in the administration of justice results.

As it is the judgment of the Association which is desired rather than a mere recommendation of the Committee, it is thought advisable to submit to the members of the Association in some detail the facts as they have been ascertained with respect to the business transacted by the two Courts, with a view to ascertaining in the first place, as a practical question, whether or not the amount of business to be done would permit its proper disposition by one Court. The data obtained were as follows:

In the Supreme Court in the year 1909 the total number of appeals taken were 632, divided into 408 in the Eastern District, 10 in the Middle District and 214 in the Western District. Of these cases there were discontinued, non prossed, remitted to the Superior Court, submitted on briefs, or dismissed on motion or otherwise disposed of without argument 126 cases, leaving a balance which were argued and disposed of by the Court of 506 cases.

The statistics as to the number of days which the Court actually sat in hearing argument upon these cases are not absolutely accurate, for the reason that in many weeks the Court sat full five days, and in some weeks probably only three days, but it would seem from all of the data obtainable that the average number of days was not less than four days in each week. The Court sat about twenty-seven weeks,

which at four days each, makes a total of 108 days, or an average of slightly less than five cases per day.

In the Superior Court 522 appeals were taken, divided into 290 in the Eastern District, 24 in the Middle District and 208 in the Western District. The precise disposition of all these cases was not ascertained in all the districts, but it is safe to say that about 20 per cent. thereof, or say 105 cases, were disposed of without argument, leaving 417 cases actually heard.

The Court sat for 20 weeks, or at the same average of four days in each week, about 80 days, thus disposing of an average of about five cases in each day.

Grouping these cases together, the result would have been that at the same rate of progress in the disposition of business a consolidated Court would have been required to sit 188 days in disposing of 923 cases during the year 1909, and sitting continuously at the rate of five days in each week, it would have been obliged to sit 38 weeks. In the eight months from the 1st of October until the 1st of June, there are practically 35 weeks, including the week between Christmas and New Year's.

It would seem from the above analysis that it is likely that the business transacted by the two Courts could be transacted within the period named at least with some slight expedition thereof, and with allowance for the cases argued in both Courts on appeal that this might be accomplished.

The year referred to above was an average year and fairly represents the amount of business done. The actual facts, with the year 1908 omitted and since the year 1899, when the jurisdiction of the Superior Court was increased, are as follows:

#### APPEALS TAKEN TO SUPREME COURT AND SUPERIOR COURT

##### *Supreme Court*

1899	1900	1901	1902	1903	1904	1905	1906	1907
664	555	579	574	546	564	602	597	634

<i>Superior Court</i>								
<u>1899</u>	<u>1900</u>	<u>1901</u>	<u>1902</u>	<u>1903</u>	<u>1904</u>	<u>1905</u>	<u>1906</u>	<u>1907</u>
609	581	569	536	531	630	570	565	586

It is urged in support of the contention that the amount of business done by both Courts could easily be transacted by a consolidated Court; that with a larger number of Judges, for example, fourteen, it would not be necessary for all of the Judges to be sitting at the same time, and that a very considerable number of the Judges might be engaged in the preparation of opinions or other work of the Court, while their colleagues were engaged in actual hearing of argument, and that in this manner a larger number of cases might be disposed of by the consolidated Court than by two separate Courts in the same aggregate number of days. This may be so, though it would seem that if the actual argument of cases before the Court required a given length of time, this could not be effected by the number of Judges who sat. It might be, however, that the labor imposed on any individual Judge would not be greatly increased, if at all.

It may be assumed, therefore, that it would be possible for one Court of appeal to hear and dispose of the business now offered within the time at its command.

It may be conceded, as a general principle, that any system which results in the more speedy determination of cases and produces greater certainty in the law is desirable, and that a system which provides but one Appellate Court in which appeals may be speedily heard, and whose adjudications are final, commends itself to all as the most desirable.

It must also be conceded, however, that in practice a condition may arise in which one Court, if sitting as a whole, could not properly hear and determine the number of cases presented, and when this condition arises that it must be met in some way. Some of the advantages of the one system must be surrendered in exchange for the benefits of the



other. In the existing condition in Pennsylvania, conceding as above that one Court could properly dispose of the business now presented, it would seem to be approaching the limit of its capacity to do so, and the question as it presents itself to the majority of your Committee is whether having regard to the future increase of business, the evils of the existing condition are so great as to require the change suggested.

These may be briefly noted:

- i. That the judgments of the Superior Court are not decisive.

This may be viewed from a theoretical and a practical standpoint. It is true that a principle laid down by the Superior Court in one case may be overturned by the Supreme Court in a subsequent case involving a larger amount, but this is true of the Supreme Court. Its own decisions have been, and if the Courts were consolidated, doubtless would be, overruled, modified, distinguished and explained, so that it may be perhaps fairly said that they, too, are not decisive of the law. The mere fact, therefore, that a decision of the Superior Court would not decisively settle the law in Pennsylvania upon a given principle, does not seem in and of itself to imperatively require the abolition of that tribunal; that such a condition should exist is doubtless desirable, but the evils, if any, resulting from the existing condition do not seem so great as to require the remedy proposed. If there is secured to the litigant a review of his case, and a final determination of the controversy between himself and his opponent, one object of the establishment of Courts has been accomplished. The injury to the litigant in a given case from the possibility that his case may be wrongly decided may be said to be non-existent. He may have his case reviewed by the Supreme Court through an allocatur if it be doubtful, and the advantages that the Superior Court prevents an overcrowded condition of the Supreme Court, and affords at least an opportunity, even

though the present practice may not provide it, for a more speedy determination of cases, seem to be real.

The present Superior Court was established in response, to some extent at least, to the argument that the amount of work which the Supreme Court was then being called upon to do was greater than it could properly attend to; that the number of cases was so large that sufficient time could not be given to their consideration, and the work was generally onerous. The abolition of the Superior Court would throw this work back upon one Court with a greater number of Judges, it is true, but so great a number as possibly to lead to results less satisfactory than the present system to the Bar, to the Court and to the community.

From the practical point of view, the extent of the disadvantages of the present system may be measured by the following statistics:

In the thirteen years from 1895 to 1908, 4991 appeals were argued in the Superior Court. The total applications for allocaturs to the Supreme Court were 765. Of these 584 were refused and 181 allowed. Of the 181 which were allowed, judgment was affirmed in 121 cases and reversed in 60 cases. Whether, therefore, theoretically the judgments of the Superior Court were not decisive as to the law with respect to other cases, yet as matter of fact if it is found to have committed error in but 60 cases out of 4991, it has correctly disposed of a large number of cases with a small percentage of error, and its judgments, whether decisive or not as to the law, have terminated a large mass of litigation.

2. That by allowing a series of appeals the law may be established by a small number of Judges.

This is a result which occurs under many circumstances, and is almost inseparable from any system. The present complaint is not that the law is not correctly decided, but that the decisions are not final in the sense of becoming authoritative precedents. If the finality and decisiveness of

the decision is the element which is to be desired, it can make no difference by what number of Judges it is rendered, so long as it establishes the law of the State. The decision of the Supreme Court remains the decision of the Supreme Court, and it would seem to make no difference how many inferior tribunals or Judges had decided to the contrary.

3. That from the fact that the decisions are not final, a delay in the administration of justice results.

As shown from the above figures, but 181 appeals were allowed from the Superior Court to the Supreme Court in thirteen years, and this does not seem to be a sufficient number to entitle the result to be styled a serious delay in the administration of justice. It is not clear that merely by consolidating the Courts the hearing of the appeals will be expedited, while it is true, on the other hand, that by abolishing the separate county return days, or by some other method, the hearing of appeals might be made much more expeditious under the present system of the two Courts than would be possible in the consolidated Court.

The majority of your Committee, therefore, feel that taking into consideration the litigation which is correctly ended and determined by the Superior Court, much as theoretically considered, a system contemplating no intermediate tribunal might be preferable, yet that the Superior Court accomplishes the object for which it was constituted, and that the reasons assigned for the consolidation of the Courts do not in the light of the actual facts warrant the conclusion that it would be wise to abandon the present system for the purpose of establishing an unwieldy tribunal of fourteen Judges with an amount of work which it might be difficult for them to properly perform, and which could not long cope with any increase in the business to be done.

The possibilities of difficulty in case of a consolidation are suggested by the request for the expression of judgment on the desirability of having such Court sit in two divi-

sions, and by the fact that the original resolutions of Judge McClure's Committee provided that it should do so.

The liability of conflict, confusion and uncertainty from such practice, however, seem to your Committee to be at least so great as to make it the least desirable of the three suggested alternatives.

At the last meeting of the Committee there were absent Messrs. Jones, Miller, Rogers and Wintersteen. Of the remaining nine, the majority, composed of the signers hereto, were in favor of returning an affirmative answer to the third question, and of replying to the letter of Judge McClure that in the judgment of The Law Association of Philadelphia it was wise to retain the present constitution of the Courts, but that if consolidated it would be more desirable to have such Court sit as one Court rather than in two divisions.

Respectfully submitted,

C. J. HEPBURN,  
RUSSELL DUANE,  
MAURICE W. SLOAN,  
WILLIAM B. LINN,  
H. B. GILL, *Chairman*.

## II. MINORITY REPORT

PHILADELPHIA, May 12. 1910.

*To The Law Association of Philadelphia.*

GENTLEMEN: At the last annual meeting of the Pennsylvania Bar Association, the Special Committee on Constitution of Courts in Pennsylvania recommended that the Superior Court of Pennsylvania be abolished, and that the Judges of the Supreme Court be increased to fourteen. The report was recommitted to the said Committee, with the request that the matter be referred in writing to the various local Associations throughout the State to secure their judgment upon certain questions:

*First.*—Whether or not it is wise to consolidate the Supreme Court and Superior Court and have it sit in two divisions; or

*Second.*—To consolidate it as one Court; or

*Third.*—To retain the present constitution of the Courts.

At a meeting of the Committee on Judicial Procedure of The Law Association, held on May 9, 1910, and at two meetings prior, the above questions were carefully considered, discussed and certain data secured in relation to the matter. The quorum present of the Committee, on May 9, 1910, voted five to four to retain the present constitution of the Courts. The minority of the Committee feel that it may be useful to The Law Association to submit a minority report.

We are of opinion that it would be wise to abolish the Superior Court of Pennsylvania, and to consolidate the Supreme Court and Superior Court in one Court. We would not provide that the consolidated Court should sit in two divisions.

We would leave to the Supreme Court the question of the details of its operation and work. It could maintain a majority at the argument of cases, and permit some of the Judges to secure time for writing opinions. From the data which has been secured, it appears that since the establishment of the Superior Court there has been an annual average of 610 appeals in the Supreme Court and an annual average of 550 appeals in the Superior Court. Of this number, approximately 80 per cent. in each Court has been argued.

In 181 cases, in which an allocatur has been allowed, on appeal from the Superior Court to the Supreme Court, from 1895 to 1908, 60 have been reversed by the Supreme Court. At the present time the Judges of the Supreme Court sit 27 weeks in each year, and the Judges of the Superior Court sit 20 weeks in each year, for the argument of cases. If

the Court sat continuously for 35 weeks, by its own division of Judges for duty, thus including no part of June, July, August and September in each year, the Court would have sufficient time to despatch its annual business. The statistics for thirteen years show there has been no substantial increase in the business of the Appellate Court; and, we believe, the consolidated Court could handle any slight increase which may be reasonably anticipated.

We believe that two Appellate Courts, the jurisdiction of which is divided by the \$1500 limit, lead to a lack of confidence on the part of the people in the appellate tribunals; that with one consolidated Court the business would be more promptly despatched, and suitors would be enabled to promptly secure a final decision, especially if such consolidated Court, by a system of return days, could arrange for appeals from all counties to be heard promptly after the appeal has been taken; that there would be less confusion in the interpretation of the law, and that, with one Appellate Court the Court would be more eager to follow and maintain its own decisions, and add to the stability of its decisions and uniformity in interpretation. The dignity of the Appellate Court would be enhanced.

From the report of the Special Committee of the State Bar Association we find that 36 States adhere to the method of procedure by appeal direct from the Trial Court to the Appellate Court, and without any intermediate Court of Appeal, and this includes States like Ohio, Maine, Massachusetts, New Jersey and Michigan. In Colorado the intermediate Court of Appeal has been abolished at the instance of the State Bar Association.

We submit a litigant is entitled to one appeal, and that this is the simple and expedient method of correcting errors of the Trial Court. While we have two appellate tribunals, then in a \$1400 case we may have one decision, and in a \$1600 case we may have another decision. An innocent party may act upon the principle decided in one case, and

it may be subsequently overthrown. Uniformity in the law, in the decisions of an Appellate Court, secures the confidence of the public and its ministers.

Respectfully submitted,

REYNOLDS D. BROWN,  
GUSTAVUS REMAK, JR.,  
HORACE M. RUMSEY,  
THOMAS JAMES MEAGHER.]

THE PRESIDENT: Is there any motion as to this report?

HENRY BUDD, Philadelphia: I move that the report be received and take the usual course.

Duly seconded, and agreed to.

THE PRESIDENT: The next report is that of the Special Committee on Contingent Fees.

JOHN B. COLAHAN, JR., Philadelphia: In the absence of Judge Beitler, the Chairman of that Committee, I desire to present its report, which is in print; and I desire to call the attention of the members to an additional paper which has been printed, and is ready for distribution, signed by all the members of the Committee. The Committee have made a very exhaustive and careful examination of the question of contingent fees and of the legislation thereon in all the States and in foreign countries; and in course of their examination they have been brought face to face with the general question of industrial accidents and of the appallingly unscientific manner in which the question is handled in this country.

### REPORT OF SPECIAL COMMITTEE ON CONTINGENT FEES

*To the Members of the Pennsylvania Bar Association.*

GENTLEMEN:—Your Committee on Contingent Fees submitted a preliminary report to this Association at its

last Session at Bedford Springs, June 29, 30 and July 1, 1909, and the Committee was then enlarged by the addition of four new members and directed to report at this present session. Your Committee has held a number of conferences and continued its investigations. It now submits the following Act and asks that the Association recommend its enactment by the Legislature.

### AN ACT

TO REGULATE CONTRACTS BETWEEN ATTORNEYS-AT-LAW AND PARTIES CLAIMING A RIGHT TO RECOVER DAMAGES IN ACTIONS OF TRESPASS, PROTECTING ATTORNEYS COMPLYING WITH THE ACT AGAINST SETTLEMENT MADE WITH THE CLIENT WITHOUT NOTICE, GIVING COURTS OF COMMON PLEAS THE RIGHT TO REDUCE THE FEES CONTRACTED TO BE PAID OR TO REFUSE ANY COMPENSATION, AND PROVIDING FOR DISBARMENT IN CERTAIN CASES.

SECTION 1. Be it enacted, etc., That whenever a contract shall be made between an attorney-at-law and anyone having or claiming to have a right to recover damages in an action of trespass, whereby the compensation to be paid to the attorney depends upon recovery or whereby it is agreed that the attorney shall receive a specified proportion of the amount recovered, such contract for contingent fees shall be in writing, executed in triplicate, and one copy shall be given to the client. If suit is brought on the claim, the attorney shall file with his praecipe for the writ one copy of the said contract; and it shall be the duty of the Court, if the action proceeds to trial, after the jury has retired, to ascertain if such a contract has been made, and filed as required by this Act.

SECTION 2. If before suit is brought notice of the contract is given to the defendant, or if after suit is brought the contract has been filed with the praecipe, as above provided, and thereafter the defendant or defendants or any of them settle directly with the plaintiff or plaintiffs, without the consent of the attorney with whom said contract was made, such settlement shall not be a bar to his recovery in the said suit of his fee, costs, and expenses, which shall be taxed by the court and judgment entered therefor in his favor forthwith.

SECTION 3. If in any such case where such a contract has been made and a settlement effected, either before or after suit brought, with or without judgment or execution, the plaintiff or



plaintiffs deem the fee collected or retained or claimed under the said contract to be unreasonable, the court in which the suit is pending, or if no suit has been brought, any court of common pleas of which the attorney is an officer, may summarily, upon request, make inquiry into the facts and settle and fix the fee proper to be paid, notwithstanding said contract.

SECTION 4. If, in any case, it shall appear to the court that the attorney has contracted to represent the client for a contingent fee and has not complied with the provisions of this Act, requiring the execution, delivery and filing of such contract, or if it shall appear that the attorney procured the case by improper solicitation, or by paying or promising to pay to some one other than the plaintiff any part of the recovery, or any compensation for securing the employment of said attorney, or if it shall appear that any expert testifying in the case has been promised by the attorney a stipulated proportion of the recovery, the court shall enter an order that the attorney shall forfeit all right to any compensation notwithstanding said contract, and if the same has been collected that it shall be forthwith paid over to the plaintiff.

SECTION 5. The court may enforce the provisions of this Act by disbarment proceedings or other suitable action as in the case of money wrongfully withheld by an attorney from his client, and either party may appeal from the decision of the court to the Supreme or Superior Courts.

Respectfully submitted,

ABRAHAM M. BEITLER,  
JOHN B. COLAHAN, JR.,  
FRANCIS FISHER KANE,  
JOHN S. RILLING,  
JOHN W. APPEL,  
A. LEO WEIL,  
S. J. STRAUSS,

*Special Committee on Contingent Fees.*

*To the Members of the Pennsylvania Bar Association.*

GENTLEMEN:—As members of your Committee on Contingent Fees, we have joined in a report recommending an Act of Assembly, the effect of which will be to place

contingent fees in actions of trespass directly under the supervision and control of the Court. We believe that the Act will check abuses, and we hope that it will meet with your approval. As individuals, however, we desire to direct your attention to another matter, which although outside of the subject referred to us, is nevertheless connected with it. We refer to the proposed substitution of compulsory compensation in the case of industrial accidents for the present system of recovery conditioned upon proof of negligence.

With the introduction of such compulsory compensation, the Courts would be relieved of at least one-fourth of the accident litigation with which they are now burdened, and to this extent we should be immediately freed from the abuses of which we complain. Under a system of compulsory compensation there is no need of lawyers, Courts, and juries, for, except in the case of willful negligence, the employee receives a compensation regulated by law, proportioned to the wages he has earned, and paid promptly by the employer without judicial intervention. There is no room for the contingent fee under such a system.

We do not ask the members of this Association to commit themselves at this time to the inherent justice of the proposed reform, much less to any particular scheme of compulsory compensation or insurance, but we do ask for a consideration of the facts. Out of the enormous number of industrial accidents in Pennsylvania happening every year, only a small number entitle the employee to a recovery under the present law. The proportion is not more than 25%. Some authorities would place it as low as 10%. The remainder are due to "the ordinary risk of the business," and the burden of them is borne by the employees themselves. Except in the case of certain classes of highly paid workmen—and this exception bears but a small proportion to the whole—the wages paid do not cover the risk of the employment. This seems to have been

proved. The financial burden, which ought to fall upon the industry, is placed upon the employees. They cannot bear it, and the result is untold suffering, and, in many cases, pauperism.

If it be said that these facts are for the public to consider, and that our profession is not immediately concerned, we must remember that there are two other aspects of the subject which it would ill become us to ignore. The present law abounds in technicalities, and is uncertain in operation. We need not discuss the economic justice of the doctrines of "assumption of risk" and "fellow-employee," or the reasonableness of the rule of contributory negligence, standing as it does as an absolute bar to an assertion of the plaintiff's rights. The fact remains that the distinctions developed by the Courts are becoming day by day more technical; the average plaintiff does not understand them; for him they have little or no moral sanction. And when one takes into account the well-known bias of juries, the strong probability that the particular jury will wish to punish the defendant, and the very proper desire of the Judge to protect the defendant from an unjust verdict, to say nothing of the chances of new trials and subsequent appeals, and the long delays involved, it is not strange that the layman should regard an accident lawsuit as a game of chance played by two lawyers, in which their adroitness and knowledge of the rules count for more than the real facts of the case. Disguise it as we may, an accident case is often a "gamble," pure and simple; nine plaintiffs on the list get nothing, the tenth seems to get the pool. If any proof of this were needed, it would be found in the contingent fee. It is a necessary incident in such litigation.

And, worst of all, our present system is criminally wasteful. The figures show that less than 40% of what is paid in premiums to employers' liability companies is paid out by them in the settlement of claims. The rest of what is received in premiums goes to the expenses and profits of

the companies, the salaries of their lawyers, etc. And out of what is paid in the settlement of cases only a part reaches the victims. They have their legal expenses, too, and the 33% or more paid in contingent fees must be subtracted. Looking over the entire field, and taking into consideration the employers who are not insured, it is probable that not one-quarter of what employers spend in self-protection reaches the real sufferers. In other words 25% goes to compensation and 75% is wasted in expenses.

Need we go further into the facts? They are well known to all of us. We also know something of the proposed reforms, of compulsory compensation under the English system, and of compulsory insurance as it exists on the continent of Europe. America alone has been content so far with an employers' liability law based on negligence. It is possible that other nations may be wrong, and that compulsory workmen's compensation for injuries, and compulsory industrial accident insurance are mistaken policies, but we believe the time has come in Pennsylvania for a full and free discussion of the subject. Tinkering with the common law doctrine of assumption of risk, fellow-employee, and contributory negligence will do little good. At the same time, constitutional pitfalls must be avoided, and the work of reform should be guided by lawyers if it is to be effective.

Our recommendation is that we ask the Legislature to authorize the appointment of a commission, such as has recently been appointed in New York and other States, to inquire into the working of our laws governing the liability of employers for industrial accidents; the comparative justice, cost, merits and defects of the laws of other States and countries relating to the subject, as well as the causes of such accidents; with power in said commission to recommend such new law or laws as it may deem wise, having due regard to the constitutionality of the same, to the end that the

defects in our present laws, if any be found to exist, may be effectively remedied.

Respectfully yours,

JOHN W. APPEL,  
ABRAHAM M. BEITLER,  
JOHN B. COLAHAN, JR.,  
FRANCIS FISHER KANE,  
JOHN S. RILLING,  
S. J. STRAUSS,  
A. LEO WEIL.

THE PRESIDENT: Is there any motion with reference to this report?

FRANCIS FISHER KANE, Philadelphia: I move the report be received and filed, and taken up in its proper order.

Duly seconded, and agreed to.

THE PRESIDENT: The next report is of the Special Committee on Road Laws. Is there any report from that Committee?

THE SECRETARY: The Secretary has had no report.

THE PRESIDENT: The next report is that of the Special Committee on Attorney-General's Department.

M. HAMPTON TODD, *Chairman*, Philadelphia: I beg simply to report progress in that I shall have to report upon it to the Legislature this winter.

THE PRESIDENT: The next in order is the report of the Special Committee on Digesting of Statutes.

J. NORMAN MARTIN, *Chairman*, Lawrence: The resolution under which this Committee was appointed seems to be a very comprehensive sort of proposition. When the Committee, consisting of Mr. Pepper and myself, got together we recognized that it was rather a sort

of custom, at least, to appoint three members of a Committee in order that at least two of them might get together; but we thought we had here a question on which nobody would agree with one another. But since coming to this convention, I received a letter from Mr. Pepper that indicates that we can probably make a report at some later date, probably next year. So I beg to report that we are progressing.

WILLIAM U. HENSEL, Lancaster: I move that the Committee be continued, with instructions to get together.

Duly seconded, and agreed to.

THE PRESIDENT: The next report is that of the Special Committee on Judiciary Department.

THOMAS S. BROWN, *Chairman*, Allegheny: The report of that Committee is in print and has been distributed to the membership.

## REPORT OF SPECIAL COMMITTEE ON JUDICIARY DEPARTMENT

### *To the Pennsylvania Bar Association:*

This Committee was appointed at the meeting of the Association at Bedford Springs in the year 1909, under a resolution which is here quoted, as follows:

WHEREAS, it is desirable that the Judiciary Department of our government be removed as far as practicable from the influence of politics, and the members thereof freed from the entanglements and exigencies of political relations;

AND WHEREAS, it is manifest that in this Commonwealth, the Judges are not sufficiently protected from the operations and influence of such relations; but, on the contrary, are unnecessarily and improperly exposed thereto by the imposition upon them of non-judicial duties, and the conferring upon them of extra-judicial powers; and by reason of other features and conditions of their positions which might by wise and proper effort be removed and corrected;

*Resolved*, That this Association undertake to consider this situation, with the view to bring about such improvement thereof

as may be found practicable; and to that end, the President is hereby authorized and directed to appoint a committee of seven members of this Association to examine and consider this subject and suggest such legislation, and other forms of effort, as may seem adapted to accomplish the result desired; and to report at the next meeting of this Association.

Your Committee has endeavored to the best of our ability and opportunity to consider the important subject thus referred to us, and we now report to the Association the results of our efforts.

Without attempting to enter into details, cite instances or furnish proofs upon the point, we will say, that, upon consideration, we are all the more convinced of the truthfulness of the preamble of the above resolution, and of the necessity for remedial efforts in that behalf; and that it is a subject eminently appropriate for the consideration of this Association, and of the Bar of the State.

It is, however, too broad, and too deep, and too important a subject to be disposed of out of hand, or by any short-cut, slightly considered remedies.

Our report presents to you our attempt at the discussion of the situation, and of the points wherein evils, or weaknesses giving cause and opportunity for evils, are observed, and our suggestions of remedies which now seem to us adapted to mitigate the evils; rather than an attempt at solutions of all the problems involved, or the proposal of any plan for the sure and certain cure of all the ills and complaints which are observable. It is our hope that what we thus present may be sufficient to arouse interest, provoke discussion, and direct the attention of the members of the Association to the situation, with the result that hereafter, on further and more elaborate consideration by the Association, and others interested in the subject, methods may be proposed, and results achieved, which will be for the welfare of us all,—the Bench, the Bar and the whole community.

We further premise, by stating that our consideration has been directed solely to the lower Courts, and that the remarks hereinafter made refer to those Courts, and are not intended to apply to the Appellate Courts, or the Judges thereof.

The salient features of the situation of the Judges of this State, which we regard as appropriate for discussion in this connection are the following: The Judges are elective officers; their terms of office are comparatively short; they are indued with the power of appointment for a considerable number of minor offices; the power to grant the licenses for the sale of liquors in the several counties is vested in them. Each and all of these furnish reasons and opportunities for the interference of political considerations and influences with the discharge of the duties of the Judges.

Our whole electoral system is devised in contemplation of the existence and activity of political parties, which are expected and intended to be the controlling forces and influences in the choice of our officers. A Judge, to be elected must first be chosen, and then supported, as the candidate of a political party; or if he runs on a so-called independent ticket, it is usually after he has sought and failed to secure the nomination of one of the parties. His accession to the office is therefore a political event; the result of partisan activity and influence on the part of himself, or his friends, or both. Being elected of course he ought not to yield himself to be influenced or controlled by his partisan bias or prejudice in his judicial decisions; and, in fact, the instances are very rare, among our Pennsylvania Judges, where that has occurred. But the fact remains and constantly affords, for those willing to use it, an opportunity to harass and distress the Judge by trying to turn his party sentiment and obligations to their own account.

The apparently obvious, and frequently suggested, remedy for this situation is the return to the appointive method of choosing the Judges; such as prevailed in this State until



1850; and which, as we all know, prevails with the Federal judiciary, and there gives such general satisfaction as to furnish a weighty testimonial to its efficacy.

Your Committee, however, does not recommend such a change; for several reasons. First: because it does not seem to be practicable. The change from the appointive system to the elective was deliberately and intentionally made by the people of this Commonwealth, sixty years ago. The reason for it was the prevalent political sentiment tending to bring all the officers of government into close and direct relations with the people, choosing all officers by direct vote and holding them all directly responsible to the voters,—a thoroughly democratic form of government. It is admitted that the plan, as applied to the judiciary, has worked fairly well,—very much better than was predicted for it by its opponents at the time of its adoption. Said political sentiment is approved by the majority of this Committee; and it is believed that it has not grown weaker, but rather stronger throughout the State, among the voters, and that the proposition to amend our State Constitution again, and return to the old method, or any method, of choosing Judges by appointment, would not meet with favor sufficient to carry it through at the polls.

Another reason for our position on this point, is, that a closer analysis of the situation leads us to believe that the mere fact that the Judge must be elected to his office is not the feature of his position which most seriously exposes him to the evil influences of political relations. The other features of the judicial position, which we have mentioned above, seem to us to have more effect and influence in this respect than do the conditions of the original selection of the Judge. As will soon appear in our discussion, it is these features or conditions of his position, when in office, that afford the opportunity for improper and dangerous pressure of political influence upon the Judge, rather than the circumstances of his first election. Of these mischievous fea-

tures of the case, the first is the worst. In his first election the position of the Judge as a candidate is not different from that of the candidate for any other office. He yields to the political exigencies of the situation, as little or as much as his principles and disposition permit or incline him to do, and is a good or a bad candidate accordingly, as you please to view him. Usually if he exhibits himself as too willingly subservient to the dictates of mere partisan politics, it is a strong point against him in his campaign and results in his defeat.

But after he has once been elected and while he is serving his term, in nine cases out of ten, we feel safe in saying, he desires to be re-elected for another term; and for that he is not to be blamed; it is praiseworthy rather than otherwise that he should so desire. We are satisfied that in many cases this feeling of the judicial incumbent is more than a desire; it appears to him, and to others viewing the situation from his standpoint, as a practical necessity. After ten, or twenty years' service on the Bench he has lost his place in the ranks of practitioners at the Bar; his practice is dissipated, his clients have affiliated themselves with others, his competitors. If he comes down from the Bench and enters the lists of the advocates at the Bar, he has to begin all over again to build up his practice, and in most cases to make his living. If his career on the Bench has been a creditable one he has gained for himself a considerable prestige thereby, which makes the conditions of his second beginning as a practitioner very much more favorable than were those of his first; but he is almost sure to find that he has lost a good deal of the forensic skill and ability which had won for him such distinction, and had secured for him such position at the Bar as he enjoyed before he went on the Bench. Many ex-Judges overcome all such difficulties with splendid success and rise to higher distinction than ever before; but the most do not; their experience on the Bench has spoiled them for being advocates; and

in every case the outcome is uncertain and questionable at the beginning.

No one in the enjoyment of a position of honor and emolument can look upon such a change in his fortunes with perfect equanimity. Without doubt or question the very great majority of our Judges do, in truth, put all these unfavorable features of their position out of sight and out of mind, as far as possible, and go forward in the exercise of their functions and the discharge of their duties with a straightforward, conscientious purpose to do right, which is above all praise, and merits the lasting gratitude of the people they serve; but it is equally true on the other hand, that they do this, very often, under a pressure and distraction of conflicting interests, desires and influences, which is both disagreeable and unwholesome, and which can hardly fail to have undesirable effect, when the subject thereof is, as he must be, and as we would always wish him to be, human.

It is this state of facts which furnishes the opportunity for the insidious, baleful suggestion to the mind of the Judge, that his own most vital interests will be subserved, or the reverse, by his decisions, appointments and actions in the discharge of his official duties; and the channel through which such suggestions are pressed upon him most frequently and most readily, by others having interests at stake in his actions, is that of his political relations and affiliations. And it is this state of facts which has given occasion for contests, in the struggle for renomination and re-election, the character of which has been deplored by all good citizens, in which the high office of Judge has been shorn of its dignity and respect, and brought, together with the law which it represents and administers, into contempt.

The obvious remedy for these evils is to limit the Judge to but one term of office. The application of this remedy, however, requires the consideration of other features of the situation. The term of office, as now fixed by the Constitu-

tion, is ten years. It can hardly be disputed that if Judges were made ineligible for re-election after a ten years' term, the office would be so unattractive to the type of lawyer best qualified to fill it, that such men would not be found to accept it. The idea of giving ten years out of the best part of his professional career to the judicial office, with all the prospect of loss and injury in his practice, which has been referred to, would hardly be entertained by any first-rate lawyer. Such a man would not accept the office at all, until he felt that his work in the profession was practically done, and that he was willing to graduate into the class of retired, if not into that of superannuated, lawyers.

To render this plan effective the term of the judicial office must be extended to a length such that good lawyers, whose dispositions incline them that way, will be willing to give up the practice at the Bar, once and for all, and thenceforth devote their lives to judicial service. In the case of the Federal judiciary the term is for life, with a provision for retirement in old age, on salary. In our State Constitution the terms of the Supreme Court Justices, who are ineligible for re-election, are fixed at twenty-one years.

There are objections to the life tenure of office, which we will not stop to discuss; because it seems to us that inasmuch as we now have in Pennsylvania this provision for twenty-one year terms in the case of Justices of the Supreme Court, to which we are accustomed, and which seems to have been satisfactory in operation, it would be better to adopt that as the standard, and make the terms of all Judges in the Commonwealth twenty-one years in duration, the incumbents being made ineligible for re-election.

We consider this plan not fully complete however, unless it is made to include a further feature whereby competent support will be provided for our Judges in their old age; and this should include all Judges,—the Appellate Courts as well as the lower Courts. After twenty-one years' service on the Bench, the opportunity of a lawyer to resume

practice at the Bar, with satisfaction or success, is practically gone, as has been already mentioned; yet his earthly pilgrimage in this life is by no means certainly near its close, and he is an exceptional man, indeed, if he has been able to lay up means competent for the rest of his life. A just appreciation of the value of the services he has rendered to the Commonwealth, and of the unfavorable features of the situation in which he is placed at the expiration of his term, entitles such a Judge, we think, to have the declining years of his life provided for by the Commonwealth. Such a provision of salary, or pension, need not be the full salary which the Judge received while engaged in his office as such, and it ought not to begin until the man reaches the age when his physical powers and capacities are understood to be seriously impaired.

To accomplish the changes suggested would require a Constitutional amendment with respect to the duration of the terms of office of all Judges except those of the Supreme Court. The feature of a pension upon retirement would be within the scope of the powers of the Legislature.

We believe that this plan would furnish a satisfactory remedy for the evils of the situation which we are considering. How it would operate to eliminate or neutralize the influence and opportunity for evil of the other feature of the Judges' present situation, which have been mentioned, will appear in the discussion of those features which now follows.

The Judges of the Courts of Common Pleas have the power and duty of appointment to a number of offices, more or less directly connected with the administration of justice, and of filling vacancies temporarily in certain other offices. In case of a vacancy in the office of constable, the Judges of the Quarter Sessions Courts appoint for the remainder of the unfilled term. They fill vacancies in the office of county auditor, and take part in filling vacancies in the office of county commissioners, in which cases the appointments

hold until the next general election. The Judges of the Courts of Common Pleas fill vacancies in election boards. In Allegheny County they appoint inspectors of the Western Penitentiary and, by recent legislation, they appoint the members of the Board of Tax Revision,—a very important office. In Philadelphia County the Judges appoint the members of the Board of Education, the Board of City Trusts, the Park Commissioners of Philadelphia, and the inspectors of the County Prison and managers of the House of Refuge. We do not attempt to catalogue here all the appointments which the Judges are empowered to make. There are others besides these mentioned, and altogether they make quite a considerable aggregate of what we know as “patronage,” placed in the hands of our Judges. We all know the use and effect of this matter of patronage,—the power to appoint to office, or the power to dictate or influence such appointments,—in connection with “practical politics.” It is the main driving wheel in the political machine; it is the chief element of the stock in trade of the political “boss”; where opportunity is afforded it is used without conscience and without scruple, to accomplish the purposes of political management; and the control of it is sought everywhere, and by all means, by political managers and bosses, of high and of low degree. The fact that the Judge must come up for re-election furnishes a lever for the politician, with which he can, and does, put all the pressure he dares upon the Judge to control or influence him in making these appointments, which trivial as some of them seem, are very useful for political purposes.

These powers of appointment are vested in the Judges, no doubt because they are the officers in whose wisdom, integrity and disinterestedness the people generally have the most confidence, and no doubt, it is a matter of public convenience to have them so vested and exercised; but they are not judicial functions, they belong to the executive department of the Government, and that they do furnish

opportunity for the pressure of "practical politics" upon the Judges, in the manner indicated, is also not to be doubted. If all such powers and functions were taken away from the Judges they would be relieved of such embarrassment, and be rendered so far independent of the influences and importunities of those who practice politics for a business.

The jurisdiction vested in the Courts of Quarter Sessions of granting licenses for the sale of intoxicating liquors in the several counties of the State, imposes upon the Judges a duty and function which is recognized as wholly non-judicial; and it is so imposed upon them for the same reasons we have indicated with respect to appointments above discussed, viz.: reasons of public convenience, and because the Judges are held to be the most trustworthy body of officials that we have in the State. These reasons have been fully justified, in the discharge of this burdensome and distasteful duty, by the Judges of our State heretofore; and these officers are entitled to a meed of praise, which is but seldom and partially recognized, for the conscientious, disinterested and altogether satisfactory manner in which they have fulfilled the obligation thus laid upon them.

It is not necessary to enter into any prolonged discussion of this feature of the judicial position in our State, to show how it operates for evil in the line we have under consideration; how strong, intense and active the interests which are affected are; how the issue forces itself into the arena in the contests for the election of Judges, and would dominate the whole contest in every case if it could, and, in fact, sometimes does so dominate; and how distasteful, perplexing and embarrassing the performance of these duties are to the Judges in office. All these things are too well known and recognized to be further dwelt upon.

In the opinion of the Committee this non-judicial function, of the so-called "License Court," is the most fruitful of all the sources of the evils we are discussing. It exerts a more vicious and more persistent influence in the selection

of Judges, and causes the Judges in office more discomfort, and interferes more with their conscientious, disinterested discharge of their duties, than any other feature of their position. If this power and duty were taken from them they would at once be exempted from the operation of the worst and most troublesome kind of political influence.

To provide a satisfactory substitute for the Quarter Sessions Court, as the tribunal to whose discretion the granting of licenses shall be committed, is the greatest difficulty to be encountered here. The persons to compose such a tribunal must be of a highly select class,—men in whose judgment, integrity and desire for the public welfare the people have full confidence. It is, in fact, a high compliment, and most worthily bestowed, which the people of Pennsylvania have paid to their Judges in placing this exclusive jurisdiction in their hands; and it is highly probable that they will not for the present, be found willing to withdraw the same,—not so much perhaps because of regard for the Judges, as because the needs of the situation are imperative, and the device in question has proved generally very satisfactory in its operation; and the danger of the demoralization of the Courts is not recognized.

Our system of granting liquor licenses involves a choice of the persons and places to be so favored, in the discretion of the licensing tribunal; and therefore that tribunal ought to be composed of persons of high and trustworthy character. For the same reason if a distinct, separate tribunal were established for this purpose, it would at once become the focus of every power and influence which parties interested in the granting or the refusal of licenses could bring to bear; first, in the election of its members, and then in controlling, if possible, their course when in office. The securing of high and disinterested character in the incumbents of the office should be the first consideration in plans looking to the establishment of such a tribunal; and this can only



be approximated at the best. Three things may be suggested as tending to produce this desired result,—

*First:* The tribunal should not be too small; it should have at least three members, and perhaps five would be better. *Second:* The term of office should be short, so that the people may readily have opportunity to approve or disapprove their conduct. *Third:* The compensation provided should be large enough to afford inducement for good, substantial men to seek, or accept the office..

The jurisdiction of this tribunal should not extend beyond one county; and the time required for the discharge of its duties would be but small. In view of these, and some of the other features of the situation, there would seem to be considerable to be gained by combining this office with some other comparatively important and responsible office in the county; and no doubt that is one of the reasons why the function was originally imposed upon the Courts of Quarter Sessions.

It is suggested that the duties of this office might be combined with those of the county commissioners, with as much convenience as they now are with those of the Judges of the Courts, and probably with satisfactory results. The commissioners are usually a pretty substantial, and rather carefully selected body of men; and it might be that their functions could be safely extended to cover the work of license commissioners, and by adding a substantial increase of compensation the character and fitness of the candidates for the office might be further improved to the general advantage. This is but a suggestion. There are great practical difficulties in the way of establishment of any such tribunal; and this Committee does not feel called upon to attempt now to solve them all and propose definite plans in the matter.

If the Judges were made ineligible for re-election, the great powers for evil which have their seats in these non-judicial duties of the License Court and of appointment to

offices, would be almost altogether eliminated or neutralized. While the Judges would still be burdened, and more or less embarrassed, with extra-judicial obligations and duties, for reasons of public convenience imposed upon them, and discharged by them really in aid of the executive department of government, they would, by this change in the conditions of their situation, be rendered practically independent of the influence of the considerations usually urged upon them by parties seeking to control their actions from interested motives.

The personal character of our Judges is, and always has been, with very few exceptions indeed, very high; and if they are relieved of any element of dependence upon the good will of politicians, or other self-interested persons, in respect to their continuance in office, they will be freed from the pressure and importunities of such persons, to their great relief; and without doubt, can be trusted by the people, as the people still desire and intend to trust them, to perform, not only their strictly judicial duties, but also such extra-judicial duties as we are considering, as nearly as is humanly possible without bias, prejudice or self-interest, arising from political or other sources.

So believing we come to the conclusion that the rendering of our Judges ineligible for re-election is the change which would have the broadest and most certain effect in the direction of protecting them from the entanglements and exigencies of politics. Furthermore, it seems to us the most feasible, and immediately and readily attainable, of the remedial measures under consideration,—even though it does involve a Constitutional amendment. The disposition of the people to utilize the Judges of the County Courts for the exercise of the administrative functions which we have been considering, is very strongly intrenched and will not be easily overcome; because, as above suggested, the Judges are, and always have been, an eminently trustworthy body of officials, and they are in close touch and relations with

their constituents; and the latter will persist in wishing to refer to their discretion these matters of the selection of local officials, and of the persons to whom licenses and privileges are to be granted, until they see much stronger reasons to the contrary than are now apparent. Coming now to the point of conclusions and recommendations, the Committee in view of the considerations and for the reasons above set forth, makes as its *first and primary recommendation* this:

That the terms of office of all Judges in this Commonwealth be made twenty-one years; and that all Judges be made ineligible for re-election. And as a corollary, or highly desirable, if not necessary, supplement to this proposition, that all Judges who have served the full term of twenty-one years, shall be entitled to receive from the Commonwealth, after they have reached the age of sixty-five years, an emeritus salary, or pension, annually, equal to at least one-half the annual salary received by them while serving as Judges.

These propositions, if adopted, will require an amendment to the Constitution, for the one feature, and a statute for the other. Drafts of such amendment and statute are subjoined as an appendix to this report.

*In the second place*, while we believe that, theoretically at least, the judicial office should be kept free and distinct from administrative or executive functions; and that the transfer of the powers of appointment to which we have referred, to the hands of distinctly executive officers, would be advantageous to the Judges; and doubtless a great relief to them generally; and that in the existing conditions they are a snare as well as a burden to the Judges; we are not convinced that such a change would promote the general public welfare; and besides this, the practical difficulties of finding appropriate hands into which to commit such powers, and of readjusting laws, charters and working arrangements to conform to the changes, would be very great; and we have shown good reasons for believing that

the really dangerous and harmful elements of this feature of the situation would be counteracted by the change proposed as to the terms of office. We therefore make no recommendation on this point further than this, that the sentiment and influence of this Association should be directed against further increase or extension of the power of appointment by Judges, of officials not directly connected with the conduct of the business of the Courts of justice in this Commonwealth.

*In the third place*, as to the jurisdiction for the granting of licenses to sell liquors;—for the reasons above stated, the chief of which is the great importance and difficulty of providing another tribunal for this purpose, we think this Association should take no action looking toward a change in the present situation until the subject has been considered more fully and maturely than this Committee has been able to do. It is, however, a subject appropriate for, and well worthy of, the attention of this Association, and we recommend that the Association devote further attention to it, by the appointment of a special committee to consider the subject of changes in the method of granting such licenses, and report thereon at the next meeting.

Two members of the Committee, viz.: Messrs. Henry Budd and D. Nicholas Schaffer, do not assent to all the views and recommendations expressed, on behalf of the majority, in this report, and therefore do not subscribe hereto.

Respectfully submitted by the majority.

THOMAS STEPHEN BROWN, *Chairman*,  
WALTER K. SHARPE,  
SMITH V. WILSON,  
T. C. HIPPLE,  
J. B. WOODWARD,

June 28, 1910.

*Of the Committee.*

## APPENDIX

*A Joint Resolution*, proposing an amendment to the Constitution of the Commonwealth of Pennsylvania, making the term of office of all Judges twenty-one years, and making them ineligible for re-election.

Be it resolved by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, That Section fifteen of Article five of the Constitution of said Commonwealth, which reads as follows:

SECTION 15. All Judges required to be learned in the law, except the Judges of the Supreme Court, shall be elected by the qualified electors of the respective districts over which they are to preside, and shall hold their offices for the period of ten years, if they shall so long behave themselves; but for any reasonable cause, which shall not be sufficient ground for impeachment, the Governor may remove any of them, on the address of two-thirds of each house of the General Assembly.

be amended, in accordance with the provisions of the Eighteenth Article of said Constitution, so that said section when amended shall read as follows:

SECTION 15. All Judges required to be learned in the law, shall be elected by the qualified electors of the respective districts over which they are to preside, and shall hold their offices for the period of twenty-one years, if they shall so long behave themselves well, but shall not again be eligible for election to such office; but for any reasonable cause, which shall not be sufficient ground for impeachment, the Governor may remove any of them, except Judges of the Supreme Court, on the address of two-thirds of each house of the General Assembly.

Schedule for this Amendment.

That no inconvenience may arise from this change in the Constitution of the Commonwealth, and in order to carry the same into effect it is hereby declared, that

This amendment shall go into effect on the first Monday of January in the year after which it may be adopted by the vote of the people of the Commonwealth.

# ACT OF ASSEMBLY

Mr. Budd then read the

## MINORITY REPORT OF SPECIAL COMMITTEE ON JUDICIARY DEPARTMENT

*To the President and Members of Pennsylvania Bar Association.*

GENTLEMEN:—The undersigned is unable to agree with the report of the majority of the Committee, appointed at the last session of the Association, to consider certain abuses in connection with the judiciary, and therefore submits the following as a minority report.

It is a matter of great regret that no meeting of the Committee was held before the eve of the assembling of the Association, and that there was, prior to our coming here, no opportunity for a frank interchange of ideas amongst those to whom the consideration of a very important question has been confided, other than the very unsatisfactory one of correspondence. As there are five members of the Committee, it is easy to see how difficult it would be to arrive at a consensus, how utterly impossible to properly urge and combat different views, when the only means of intercourse was by letter.

That Judges are not sufficiently protected from political and, perhaps, other influences, for business and political influences are now closely allied, seems to be generally admitted. The burden of the Judge is rendered unduly heavy by the imposition upon him of non-judicial duties, and by other matters. So far the undersigned agrees with the majority of the Committee. He does not altogether agree with the opinion of the majority as to the manner in which the burden is placed and he does not agree with the remedies proposed in the majority report, a draft of which the Chairman of the Committee was so kind as to send him some few weeks before the meeting of this Association.

That our Judges are elected by the people, and generally after a nomination by a political party, is of course true, and it would be well if there could be devised a method

by which the people could always choose those who are to serve the community in judicial office, after a consideration of their personal and professional qualifications, without regard to their party affiliations. In other words, if the nomination of Judges could be made otherwise than by party organization, but the fact that nominations are made as at present should not destroy, necessarily, independence, and the writer regretted very much to read in the majority report the following: "or if he run on a so-called independent ticket, it is usually after he has sought and failed to secure the nomination of one of the parties." The statement is entirely contrary to the experience of the writer, who has known several gentlemen who were placed upon "independent tickets" within his own city and he has known that they never sought a nomination in any way, and that in the case of some of them the nomination meant for them a withdrawal from even their usual political activity. Men have undoubtedly sought the office of Judge, have intrigued for it, have begged for it, or have been placed on the Bench through influence brought to bear upon party leaders, or upon the Executive, when the appointment has been placed by the Constitution within its gift, but disgusting as is the spectacle of a Judge seeking the office by any other means than by the establishment of a high character for learning, courage, honesty, industry and conscientious devotion to duty, the main evil which has assailed our Bench has not arisen from the way in which some men have reached it. There have always been men who have sought the Bench by improper ways, as well where Judges have been appointed as where they have been elected. Strong "influences" have apparently in some cases brought about appointments on the Federal Bench, and even of improper men, and Lord Campbell's books will show, even in England, instances of men who owed their judicial position to a convenient change, on their part, if not of political views, at least, of party allegiance, and some of those



men have made able and excellent Judges. The political Judge has not always been, in other respects, a bad Judge, teste Lord Mansfield. If Judges are to be criticised because they have gone on the Bench by "political appointment," what should we say of the English system, under which any chiefship falling vacant during his term of service is looked upon as almost the absolute property of the Attorney-General, who is brought into the service of the government as a party representative and goes out of office with his party in exactly the same way as any member of the cabinet, although he is nominally the law officer of the Crown.

But not to waste time upon the question whether or not the method of selection of our Judges is responsible for the ills whose existence gave rise to the appointment of the Committee, we come to the questions: What are the ills? and how may they be cured? The original source of the ills is interesting only in that a knowledge of it will be of assistance in the adoption of a proper cure, which may be to cut off the source.

From an analysis of the report, as it was when sent to the writer, the majority seem to think that the ills of which we have to complain are (1) that the Judges are eligible to re-election and therefore are tempted to cater to the desires of political leaders, in order to secure re-election, and the remedy proposed is to limit the Judge to but one term of office, and to extend that term to twenty-one years, or some other long time, and to pension the Judge; in other words, to take away from any Judge, no matter how able, any hope of continuance in office beyond a certain time, and to assure to a man once elected to the Bench, provided only that he so acts as to escape impeachment, a living at the expense of the community for the rest of his days; (2) that Judges have imposed upon them certain non-judicial duties, notably that of making appointments to boards and other offices and the granting of liquor

licenses; but for this the writer does not see that any remedy is proposed by the report other than that proposed above, and the Judges are to be allowed, or rather, be compelled, to go on filling offices by appointment and be subjected to the annoyance of being solicited, in the interest of this man or that, to appeals to their gratitude, both in the true and cynical sense, etc., and to continue to act as, to use the words of a late distinguished Judge, to whom the whole of our present system of liquor license was abhorrent, "dispensers of favors" in the matter of the granting of liquor licenses, because, being securely seated for a long term of years with no prospect of re-election, there will be no temptation to do any wrong in the matter of such licenses. To be perfectly logical, it may be suggested that to altogether remove temptation from Judges arising from matters connected with their terms of office, it should be provided that a Judge once placed on the Bench of a lower Court should be forbidden to even aspire to a seat upon the Supreme or Superior Bench, or to accept appointment thereon, for hope of promotion has perhaps been, at least to minds naturally generous, as potent a motive as fear of loss of present position. It was not fear of loss of employment that caused Copley to desert the principles in which he had been educated and to which he professed devotion, and make the change of political allegiance which led on to the Chief Baronship, the Chief Justiceship and the Woolsack. I will try to take up the matter suggested by the report somewhat in detail.

It may be taken as generally admitted by the more thoughtful members of our profession that the ills from which the Bench, and through it the community, now suffers, namely, the selection of Judges for considerations other than those of personal character and professional fitness, the impairment of confidence on the part of the community in the judiciary as a system, and the diminution of the respect once felt by the people at large for the Judge

as Judge, the annoyance to which the Judge is subjected by interviews and requests from persons in and out of power, the consequent consumption of the Judge's time, when he should be free for the consideration of the intricacies of law and the fulfillment of his judicial obligations, are due not to the fact the man is elected to the Bench by the people acting under a party system of government or necessity, or to a fear of non-retention in office at the expiration of his present term of ten years, but is due to the imposition upon the Bench of non-judicial duties, and especially that of granting liquor licenses. The imposing upon or the exacting from the judiciary of non-judicial duties violates the first principles of American republicanism, which is that the freedom of the people is best preserved by a government of checks and counterchecks, and therefore our ancestors, from the beginning, determined on the careful separation of the three functions of government—legislative, executive, and judicial. They did not leave the judicial at the mercy of the legislative, as it still is, theoretically, at any rate in England, where an Act of Parliament can change the entire judicial system, legislate out of office, if Parliament should see fit, every Judge on the Bench, but protected it by the Constitution, giving it the same sanction as was given to the other departments, protecting it even against hasty and ill-considered action by the people whose supreme power of change was limited, by its own action in adopting a Constitution, to an exercise in a specified and well defined way, namely, by the way of constitutional amendment. Any law, therefore, which assumes to impose upon, or, if we prefer the expression, vest with executive or legislative functions, the judiciary, comes to us discredited in advance. Any step in the direction of confusion of powers is dangerous. It is worthy of note that when, becoming afraid of trusting municipal legislatures, the Legislature formed the Fairmount Park Commission and vested the appointment of Commissioners in the District

Court and the Common Pleas for the County of Philadelphia that great Judge, Sharswood, then President of the first named Court, refused to have anything to do with making the appointments, on the ground that the function thus imposed upon the Court was not judicial, and what is clear theoretically is equally clear in the light of practice, for it is manifest that imposing such duties upon Judges, who should be elected only to interpret and enforce the law, must expose them to annoyance and to temptation. This is true with regard to the effect of the imposition of any non-judicial duty, but the worst of all the burdens imposed upon the Judges, which has done more to impair that great reverence in which the Bench was held within the memory of most men of fifty, is the burden of the License Court. It was apparent from the start that, without having any reference to the character or conduct of the individual Judge in office, it would introduce into the selection of a Judge an element which was in the highest degree dangerous, namely, a consideration of the views of the nominee for the judicial office upon the question of license. In one district, where public opinion was very pronounced in the direction of total abstinence and where the majority believed it to be its duty to render the obtaining of intoxicating liquor as difficult as possible, a learned, honorable and upright Judge who believed in reasonable liberty as to the obtaining of liquor, would be very liable to be defeated at the polls, where the opposing nominee was a rigid believer in abstinence, and could be depended upon to keep the number of saloons down to a minimum, even though he were a man far inferior in general character, learning and ability to this gentleman first named. In rejecting the first and electing the second man, the voter, who believed temperance or abstinence to be desired above all things for the good of the community, would act conscientiously and honestly, even if mistakenly and fanatically. In another district matters would be reversed and a man

in every way qualified for the Bench but who held rigid views upon the question of the use of liquor, and might be expected to grant but few licenses, would run great danger of being rejected in favor of a man in every way inferior to him but whose liquor views were of a more liberal cast. This, in itself, would be enough to condemn the placing of the burden of licensing sales of liquor upon the Court, and can any one say that, especially in the country districts, that which might have been feared has not happened? Besides this, we know that, unfortunately, scandals have arisen in connection with the granting of liquor licenses and the whole system seems abhorrent. Pressure will be brought, directly or indirectly, to bear upon the dispensers of licenses whether they be Judges or not, and this personal influence is brought to bear upon the Judge charged with the duties of granting licenses, not only by politicians, but by others. I remember in the early days of the licensing system it was well understood that the Vice Provost of the University of Pennsylvania, a most delightful old gentleman, had called upon one of the Judges, a former student of the College of the University, to urge the claims of a certain applicant for a license. The Brooks Act has done more to hurt the estimation in which the judiciary is held than anything occurring within the memory of man. I have never practiced in the License Court. I have never obtained or applied for a license, but in the early days of the administration of the law I have looked into the Court on a few occasions, and was conscious of mortification as a member of the Bar and as a citizen. I say so much as I have said upon the matter of liquor license because I believe it to be, although not the only, a very great factor in the condition for which a remedy is sought. One of the most significant things with reference to the effect upon the Bench is the fact that a few years ago the License Court in Philadelphia adopted a rule, whether it still exists or not I do not know, of an utterly illegal character, namely, one requiring the state-

ment to the Court of the fee which the applicant had undertaken to pay his lawyer for obtaining for him a license. This rule was, in conversation with the writer, defended, by one of the Judges responsible for it, on the ground that the size of some fees had pointed in the direction of corruption. The justification was not placed upon the ground of protection of the liquor dealer from extortion.

The fact that other appointments are left in the hands of the Judge adds to his troubles. Influence will be brought to bear about the selection of persons for offices within the gift of the Judge, and we have seen men whose chief, if not only, recommendation, so far as an outsider could judge, was that they are friends or relations of men wielding great political power, just as, indeed, some Judges are appointed or nominated for apparently the same reason.

Now to remedy the evil the majority report proposes not that patronage and non-judicial functions should be taken away from the Bench, that it should be relieved from a burden which ought to have never been imposed upon it, but that Judges should be made ineligible to re-election; that their terms should be lengthened very materially, and that they should be pensioned.

Now let us look at these remedies and see if they will accomplish the desired end. First, it is admitted that if a Judge is to be ineligible to re-election his term should be lengthened, but what is the result of the scheme of the majority report? It is practically to make a class of public servants whose conduct and efficiency shall practically be exempt from accountability to the people. The effect will be to fasten a perhaps incompetent or indolent Judge upon the community for a long time and to insure him a pension, which he has not earned by efficiency or good conduct, if he only live out his term and reach a certain age. He is practically unaccountable—there is no remedy in case of his inefficiency. You may say that impeachment remains as a remedy. But are we likely to have the spectacle

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of the impeachment of a merely indolent or inefficient Judge? Or, if an incompetent man be elected by the people, could the Legislature undertake to overrule the popular choice by impeaching the elected Judge for incompetency? Besides which, as our Constitution stands at present, impeachment would not lie, as it is very questionable whether misdemeanor in office would cover mere indolence or inefficiency, and Judges are expressly protected from removal "for reasonable cause" upon the address of two-thirds of the Senate. Under our present system, it seems that the people must in some way be enabled to judge of the character and service of all their officers and not, after having perhaps made a mistake in the selection of an officer, to be condemned to suffer from that mistake during a long period of time, without any means of remedying the mistake in a reasonable time. It seems, therefore, that Judges, like all other public servants, should be required to submit their work to the judgment of the people whom they are elected to serve, by whom they have been chosen, to whom they owe their offices. The term, of course, should not be too short, but a true Judge need not fear of defeat if he but do his duty. Judge Sharswood was re-elected, during the Civil War, in the midst of bitter political feeling, at a time when partisanship ran high, because the Republican city of Philadelphia recognized the fact that while Sharswood was a most pronounced Democrat, he was a great Judge whom the community could not afford to lose. The case of Judge Ludlow was similar. It seems, therefore, that the effect of greatly lengthening the term of office, while it would by no means insure the election of a competent and able Judge, might well be to fasten upon the community many an incompetent or most objectionable Judge, who would not be corrupt or criminal, and hence unimpeachable, but who would do as much harm in his innocent, well meaning incompetency as would be done by a corrupt or criminal magistrate.

The suggestion that the people should have an opportunity of retiring a Judge by refusing to re-elect him, when for any reason his work is not satisfactory, is met by saying that it is a great hardship to retire a Judge without provision for his support, that having acquired judicial habits he is unfitted for the struggle at the Bar. This argument, if only the convenience and well being of the individual were the matter for consideration would be weighty, but the question here is the good of the community. How can it obtain the best service, by continuing a man for a long time on the Bench, competent or incompetent, for fear that he will suffer when he leaves at the end of a fair term, say ten years, or by giving the people the opportunity of keeping a competent and of getting rid of an incompetent man? To the good of the public the individual must give way. Besides this, the hardship of the Judge on coming off the Bench does sometimes seem to be exaggerated. Great work has been done at the Bar by men who have been upon the Bench for even a considerable period of time. It is perhaps hardly fair to instance Curtis, who did not care for the Bench, but Dillon and Jeremiah S. Black are fair examples, while in our great cities we find men of lesser note who do not find their previous judicial experience anything of a handicap in their contest at the Bar. Not that rotation on the Bench should be encouraged; on the contrary, a Judge should be kept on the Bench so long as he does his work well and demeans himself as a Judge ought, but he should not be kept there when those conditions are not fulfilled, and if he comes back to the Bar, it may be that some of the very characteristics which militate against his success as a Judge have contributed greatly and will still contribute to his success as an advocate. Besides this, it is generally an error to think that as a rule the Judge makes a pecuniary sacrifice by going on the Bench. Some Judges undoubtedly do, but from a knowledge of conditions in my own city one can safely



say that, in the case of the majority of the Judges of our lower Courts in our time, the salaries now paid exceed the amount of their professional emoluments at the Bar. Few have lost anything by going on the Bench. I cannot see, therefore, that the fact that some Judges may not succeed after leaving the Bench is a sufficient reason for giving to all who are on the Bench practically life positions as Judges for twenty-one years and as pensioners thereafter. Besides this, the refusal of re-election may deprive the community of the services of men who are at their best and who have gone on the Bench at a reasonably early age. Forty is a very good age for a Judge to begin his work as such. Should Judges, who are worth anything at all, be retired at sixty-one? Is not a Judge, who has had some experience on the Bench, generally at his best, as a Judge, between sixty and seventy? Had the rule of twenty-one years and no re-election prevailed the community would have lost the services of Sharswood when he was 56, in the year 1866; Judge Mitchell, in the year 1892 or 1893, when he was about the same age; Judge Penrose in 1899; Chief Justices Sterrett and Agnew at the height of their powers. Other instances might be given. The enforced retirement of some of these men would have been a most serious loss to the community.

Taking everything into consideration, it is submitted with confidence, for the accomplishment of the purpose of the object for the consideration of which the Committee was appointed, it is not necessary or desirable to provide that Judges shall have longer terms, be ineligible to re-election and have pensions.

The root of the whole evil lies in the possession of patronage and the imposition of non-judicial duties. The influence which is brought to bear on the Bench by the politician is not in the way of having cases decided one way or another. The story told by Mr. Bryce, in his *American Commonwealth*, of the man who made a hand-

some living by taking money for his supposed influence, which sum was always conscientiously returned in the case of a decision adverse to the person from whom the money was taken, is very amusing but a little absurd for credence, and is probably one of the cases in which the credulity of the author was imposed upon. The real influence exerted on the Bench is with reference to appointments and the granting of liquor licenses. As was said to the writer by a gentleman very closely connected with the political powers that be in a certain locality, the mental attitude of the said powers is: "We don't want to interfere in cases or ask the Judges to make any decision not in accordance with their views of the law, but we do say that when we present proper men to them for appointments to boards and commissions they ought to appoint them." Now it may be noted that here the politicians make a decided and reasonable distinction between the Judge as Judge and the Judge as the administrator of a non-judicial office, namely, the appointer to public office. In the former case they would not interfere. They are not so bad or so foolish as to wish to uproot the foundation of society, the impartial administration of law as law. In the latter case they claim a right to suggest to, to influence the Judge, and it may very well happen that the politicians are as well qualified to properly estimate the ability of a given man for a given office as are the Judges. It requires no legal training or judicial acumen to select a park commissioner or a tax assessor. The trouble is that the public at large does not make the distinction, and to them the Judge is always the Judge, and if he favor an individual, especially if that individual be a politician, or accept dictation in the matter of an appointment, the public is scandalized and the judiciary suffers in its estimation, and so the Judge's righteous hold upon the public is weakened. The temptation to which the Judge is exposed is the temptation to substitute in his appointments for his own judgment that of political

leaders, and his character suffers, not so much because he has made a bad appointment, for the appointment may be good, but because he becomes an instrument instead of being, in obedience to the law, the real maker of the appointment. All this could be cured by the taking away from the Judge the power of appointment of all officers except those in immediate attendance upon them as clerks and tipstaves, and such officers as are necessary to carry into effect decrees and orders of Court where the law has not otherwise provided instruments.

Requiring Judges to pass upon the grant of liquor licenses is so altogether bad, and has led to such scandalous suspicion, even where the Judge is altogether innocent, that it should be done away with altogether. When a Judge can speak as I know one Judge has spoken of a license granted by two brother Judges as "a rotten license," matters have come to a sad pass indeed, but whether there has been any improper conduct in the grant of licenses or not, the fact that Judges have the licensing power has undoubtedly diminished the respect in which the Bench has been held and has exposed it to temptation and annoyance from which it should be relieved.

On the whole, it seems to the writer that the remedy which the Committee was organized to seek can be found in simply taking away from the Judges the non-judicial functions and in depriving them of the power of appointment to offices not immediately connected with the administration of justice. How officers at present appointed by the Judges should be appointed would be matter of consideration in each case: *e. g.*, a receiver, except a temporary one, might well be elected by a majority of the creditors.

The following resolution is therefore suggested:

*"Resolved,* That in the opinion of the Pennsylvania Bar Association, all Acts or portions of Acts imposing upon the Courts the duty of granting or refusing licenses and the performance of other

functions not judicial in their character should be repealed; and that no power of appointment to office should be possessed by the Judges, except that the Judges may appoint court clerks, criers and tipstaves, officers necessary to carry out any decree or order of the Court, when the law has not otherwise provided, and that where a Master in Partition or a Referee shall be required in any case and the parties cannot agree upon a person as such Master or Referee, the Court may upon the request of the counsel in the cause appoint a person as such and that the Court may also appoint Masters in Divorce, Commissioners and Guardians in lunacy."

HENRY BUDD.

THE PRESIDENT: Both reports of this Committee are now before the Association. What action will you take thereon?

GEORGE R. VAN DUSEN, Philadelphia: I move they be received and filed.

Duly seconded, and agreed to.

THE PRESIDENT: The next report is that of the Special Committee on the Jury System.

THE SECRETARY: I have had handed to me this report:

### REPORT OF SPECIAL COMMITTEE ON JURY SYSTEM

*To the Members of the Pennsylvania Bar Association.*

GENTLEMEN: At the last meeting of the Association, it was resolved that:

"A special committee of five be appointed by the Chair for the purpose of examining the jury system under the Constitution of Pennsylvania, to the end that they may report to the Association whether or not it would be desirable to so alter the law that less than a concurrence of the entire twelve shall be necessary to the rendition of a verdict."

Owing to the novelty and importance of such a departure in the existing administration of justice in the Com-

monwealth as is contemplated by the resolution, and to the nature and extent of the inquiry into the desirability of any change in the number of the jury that shall be necessary to the rendition of a verdict, and to the determination of the practical workings of such a changed system in places where it has been adopted, and to whether or not there ought, if any change is to be made, be any differentiation between civil and criminal cases and so that the investigation of your Committee may be thorough and comprehensive, it is deemed wise to defer any report on the subject-matter of the resolution entrusted to the Committee until the next meeting of the Association. It may be added that it has been suggested that the scope of the duties of the Committee ought to be enlarged to include the general subject of any change of the jury system as existing in Pennsylvania, but whether or not such an enlargement of the functions of the Committee is desirable or, if there be any need of any changes in the existing jury system, a separate Committee ought not to be appointed to consider them is for the good judgment of the Association.

THOMAS JAMES MEAGHER,  
*Chairman.*

THE PRESIDENT: You have heard the report, what action will you take upon it?

JOHN B. COLAHAN, JR., Philadelphia: I move it be received and filed.

Duly seconded, and agreed to.

ALEX. SIMPSON, JR., Philadelphia: I move the appointment of a Committee of Seven on nomination of officers other than President, to be appointed by the Chair, and to report at the last session of the Association.

Duly seconded, and agreed to.

The Chair appointed the following as the Committee on Nominations:

ALEX. SIMPSON, JR. ....	Philadelphia.
WILLIAM U. HENSEL .....	Lancaster.
HENRY J. STEELE .....	Northampton.
THOMAS PATTERSON .....	Allegheny.
CHRISTIAN H. RUEHL .....	Berks.
GEORGE R. BEDFORD .....	Luzerne.
WILLIAM HARRISON ALLEN .....	Warren.

On motion, adjourned.

## FIRST DAY, EVENING SESSION

TUESDAY, *June 28*, 1910.

The Association reconvened at 8 o'clock p. m., President ENDLICH in the Chair.

THE PRESIDENT: At several meetings of this Association it has been our privilege to listen to addresses full of interest and instruction delivered by Judges who came to us from among our kinsmen in Delaware. I use that phrase because Delaware has always been and still is very close to us. Geographically, of course, as we know, it is about as close as it can be. But in other respects it has been very close to Pennsylvania. It is close to us in its faithful adherence to the Commonwealth. It is close to us in historical traditions. We do not forget that at one time it was, at least upon parchment, part and parcel of Pennsylvania, under the name of the Three Lower Counties on the Delaware. It has always been true to Pennsylvania—in patriotic sentiment on various occasions slightly in advance of Pennsylvania. It was four days in advance of us in the declaration of independence, and it was six days in advance of us in the ratification of the Constitution.

We are fortunate in having with us to-night the distinguished Chief Justice of that steadfast and sturdy community, whom it is now my pleasure and privilege to introduce to you as the orator of the evening—HON. JAMES PENNEWILL.

(For Address by Hon. James Pennewill, on "The Layman and the Law," see Appendix.)

WILLIAM I. SCHAFER, Delaware: I move that the thanks of the Association be tendered to the speaker of the evening for his brilliant Address, and that he be made an honorary member of this Association.

Duly seconded, and agreed to.

On motion, adjourned.

## SECOND DAY, MORNING SESSION

WEDNESDAY, *June 29, 1910.*

The Association assembled at 10 o'clock a. m., President ENDLICH in the Chair.

THE PRESIDENT: Will Vice President Stewart please take the Chair?

Vice President RUSSELL C. STEWART then took the Chair, and the business of the Association proceeded as follows:

THE VICE PRESIDENT: The first business in order is the presentation of the report of the delegates to the American Bar Association.

J. HENRY WILLIAMS, *Chairman*, Philadelphia: Your delegates appointed to represent this Association in the American Bar Association beg leave to present the following report:

## REPORT OF THE DELEGATES TO THE AMERICAN BAR ASSOCIATION

CAPE MAY, N. J., *June 27, 1910.*

*To the President and Members of the Pennsylvania Bar Association:*

The Thirty-second Annual Meeting of the American Bar Association held at Detroit, Michigan, August 24-27, 1909, presided over by Frederick W. Lehman, was attended by many of our distinguished brethren, among whom were Mr. Georges Barbey, of Paris; Sir Frederick Pollock, of London; and Karl von Lewinski, Judge of the Circuit Court of Berlin.

Of the three delegates and three alternates selected by you to attend this meeting, four were present, John I. Rogers, Rodney A. Mercur, Hon. Francis J. O'Connor and J. Henry Williams.

Pennsylvania, as usual, had a large representation—twenty-four present; but three States had more, Michigan with forty-nine, Illinois with forty, and Missouri, twenty-seven.

The members from Pennsylvania selected Hon. William H. Staake as member of the General Council, Hon. Russell C. Stewart as Vice President, and William Righter Fisher, Henry J. Steele, Francis Rawle, James C. Gray, William E. Rice and John I. Rogers as the Local Council.

The address of the President, reviewing the legislation of the previous years, was interesting, replete with information and well delivered.

Papers were read during the session on the "French Family Relation," by Georges Barbey; "Juvenile Courts," by Hon. Julian W. Mack; "The People and Their Laws," by Hon. Augustus E. Stevenson, and "Courts of Last Resort," by Hon. William L. Carpenter.

The social features were much enjoyed.

This report cannot be closed without a brief reference to our distinguished colleague, Col. John I. Rogers. It was hoped that he would have had the pleasure of preparing the report of your delegates, but on March 13th of the present year he passed to the great beyond. A record of his life and work has already been made by the Committee on Legal Biography. Permit, then, but a brief personal tribute of respect and affection by one who knew him for many years and learned to appreciate the charm of a pure life well lived.

Respectfully submitted by

J. HENRY WILLIAMS,  
FRANCIS J. O'CONNOR.



THE VICE PRESIDENT: You have heard the report of the delegates to the American Bar Association; what is your pleasure in regard to it?

ALEX. SIMPSON, JR., Philadelphia: I move the report be received and filed.

Duly seconded, and agreed to.

THE VICE PRESIDENT: The Chairman of the delegates to the Bureau of Comparative Law not being present at this moment, the next business in order is the consideration of the reports of Committees, and first in order is that of the Executive Committee.

JOHN B. COLAHAN, JR., *Chairman*, Philadelphia: In the report of the Executive Committee there is a recommendation to the Association with regard to the Joint Commission of the Senate and House of Representatives on the revision of the Corporation and Revenue Laws. I have conferred with a great many of our most active and influential members, and no one seems to see clearly how at this time, with the bulk of business before us, the body *qua* body can do anything. I therefore present the following resolution:

*Resolved*, That the members of the Association be earnestly urged to assist the Commission in any way that lies in their power.

Duly seconded, and agreed to.

THE VICE PRESIDENT: The report of the Committee on Law Reform is now before the Association.

ALEX. SIMPSON, JR., *Chairman*, Philadelphia: The first matter dealt with in the report of the Committee on Law Reform is the Act referred back to the Committee last year on the subject of election by surviving husbands and wives to take against the wills of deceased husband or wife, as the case might be.

Since this report was prepared and printed, the Committee have had the assistance of Mr. Thomas J. Meagher, of Philadelphia, in suggesting several amendments, which

seem to the Committee add to the strength of the Act as drafted; and, on behalf of the Committee I want publicly to thank Mr. Meagher for his interest in regard to that matter, and to request other members to take example therefrom. The suggested amendments which the Committee have approved—if the members will turn to the report, as the members have it before them—are as follows:

On the first line of the title, after the word "elections," to insert the words "by surviving husbands or wives;" to strike out the word "and" in the next to the last line of Section 1, and to add to the section the words "and delivered to the executor or administrator of the estate of such decedent." And to amend the second section by striking out the words "person authorized to elect to take under or against any will," and to insert the words "husband or wife;" to strike out the words "signed and acknowledged as aforesaid," and to add to the section the words "as provided by the first section of this Act."

The Act thus amended will read as follows:

### AN ACT

RELATING TO ELECTIONS BY SURVIVING HUSBANDS OR WIVES TO TAKE UNDER OR AGAINST THE WILLS OF DECEDENTS TO THE RECORDING THEREOF AND OF FINAL DECREES WHERE PARTIES HAVE FAILED OR REFUSED TO ELECT WHEN REQUIRED SO TO DO, AND FORBIDDING PAYMENTS TO SUCH PARTIES UNTIL THEY HAVE MADE AND FILED THEIR ELECTIONS.

SECTION 1. Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania in General Assembly met, and it is hereby enacted by authority of the same: That surviving husbands or wives electing to take under or against the wills of decedents shall in all cases manifest their election by a writing signed by them, duly acknowledged by them before an officer authorized by law to take the acknowledgment of deeds, and delivered to the executor or administrator of the estate of such decedent.

SECTION 2. No payment from the estate of such decedent shall be made to any husband or wife, unless his or her election

shall have been duly executed, acknowledged and delivered, as provided by the first section of this Act.

SECTION 3. Such election, or a certified copy of the final decree of any Orphans' Court in cases where there has been a neglect or refusal to elect within the time prescribed by the order of the said Court shall, at the cost of the estate, be recorded by the personal representative of the decedent in the office for the recording of deeds of the county where the decedent's will is probated, and it or a certified copy of it may also be recorded in any other office for the recording of deeds within this Commonwealth, with the same effect as if a duly signed and acknowledged declaration to the effect stated therein had been made by the person authorized to elect, and at his or her request recorded in said office according to law.

I think you will find, at least those of you who have studied the Act, that, with the changes which have been made, it meets the consensus of opinion as expressed by the Association at the last annual meeting; and with the amendments I have now suggested, I move that the Act be approved by the Association.

Duly seconded, and agreed to.

ALEX. SIMPSON, JR., *Chairman*, Philadelphia: The second subject referred to the Committee on Law Reform at the last annual meeting related to a portion of President Todd's address, and it was suggested that there be referred to this Committee the question touching the unsatisfactory character of existing legislation governing the winding up of monetary and insurance corporations; but it has seemed to the Committee that that is a subject outside of the general purview of the duties of this Association, and that it would be exceedingly unwise for us as an Association to delve generally into the matter of substantive law. The Committee, therefore, asks to be discharged from further consideration of the resolution referred to.

JOHN B. COLAHAN, JR., Philadelphia: I move the report of the Committee on this subject be approved, and the request of the Committee granted.

Duly seconded, and agreed to.

ALEX. SIMPSON, JR., *Chairman*, Philadelphia: The third subject referred to this Committee related to the taking of exceptions on the trial of a case; and we have also, since the printing of this report, had the assistance of Mr. Meagher in a way that seems to us will aid in the proper construction of the Act. If the members who have our report before them will follow me, I will point out wherein his suggestions have been adopted.

After the word "case" in the title of the Act, insert the words "civil or criminal;" strike out the words "upon the record," at the end of the title, and insert the words "in the proceedings of a case." In the first section, fifth line, strike out the words "action at law," and insert the words "case, civil or criminal;" in the next line, strike out the word "formally;" and in the next line, after the word "request" insert the word "by counsel." In the first line of Section 2, strike out the word "formal;" and after the word "same" in the fourth line, insert the words "in the hearing of the Court.

In Section 4 change twenty days to fifteen days. At the end of the ninth line insert the words "after objection;" and at the end of the section add the words "without the necessity of calling the stenographer as a witness to prove the same." In Section 6, second line, strike out the words "upon the record," and insert "in the proceedings."

The addition to Section 4 obviating the necessity of calling the stenographer to prove his notes is made so that the Act may comport with the Official Stenographers' Act. The change from "Whensoever the decision of a Court of record shall appear *upon the record* of a case," to "shall appear *in the proceedings* of a case, it shall not be necessary for the purposes of a review of that decision, to take any exception thereto," etc., is adopted by the Committee because they feel very strongly that it will tend to avoid disputes, unnecessary disputes and harmful disputes which not uncommonly arise during the trial of a case. As every active

practicing lawyer knows, it frequently happens that the counsel against whom a decision has been rendered will ask for an exception, and the trial Judge will think—and perhaps in nine times out of ten he will be right in his thinking—that it is not a matter of exception at all, but a matter discretionary with him; but, when he undertakes to decide that he undertakes to take the place of the appellate tribunal, and he has no right to do that. Counsel have the right to an exception, and the trial Judge ought to let the appellate tribunal say, if necessary, that the exception is of no value, because the matter was one within the discretion of the trial Judge. It does seem to us that anything which tends thus to simplify the proceedings throughout the trial, and to avoid any seeming contest between the Court and counsel during the trial, is always going to be advantageous in the administration of justice. It also seems to us that you do not often need the entire record of the case upon appeal, the legal questions frequently arising on a very small fraction of the record; and for that reason Section 5 has been inserted.

The Act as now proposed reads as follows:

#### AN ACT

RELATING TO THE TIME AND MANNER OF TAKING EXCEPTIONS IN ANY CASE, CIVIL OR CRIMINAL, IN ANY COURT OF RECORD IN THIS COMMONWEALTH, TO THE EFFECT THEREOF, TO TRANSCRIBING THE EVIDENCE TAKEN UPON THE TRIAL OF ANY CASE, TO THE CORRECTION AND PERFECTION OF SUCH TRANSCRIPT FOR THE PURPOSES OF REVIEW, AND PROVIDING THAT EXCEPTIONS NEED NOT BE TAKEN WHERE THE DECISION OF THE COURT APPEARS IN THE PROCEEDINGS OF A CASE.

SECTION 1. Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania in General Assembly met, and it is hereby enacted by authority of the same, That from and after the passage of this Act it shall not be necessary on the trial of any case, civil or criminal, in any Court of record in this Commonwealth for the trial Judge to allow an exception to any ruling of his, but upon request by counsel made immediately succeeding such ruling, the official stenographer shall note

such exception, and it shall thereafter have all the effect of an exception duly written out, signed and sealed by the trial Judge.

SECTION 2. Exceptions may be taken without allowance by the trial Judge to any part or all of the charge, or to the answers to points, for any reason that may be alleged regarding the same in the hearing of the Court, before the jury retires to consider its verdict, or thereafter by leave of the Court, and they shall be thereupon noted by the official stenographer, and thereafter have all the effect of exceptions duly written out, signed and sealed by the trial Judge at the time of the trial.

SECTION 3. The official stenographer shall transcribe the notes of the evidence taken upon the trial of any case, under the following circumstances and those only: (a) when directed by the Court so to do, or (b) when an appeal has been taken to the Supreme or Superior Court, or (c) when he shall be paid for a copy thereof by a person requesting him to transcribe it.

SECTION 4. When the evidence in any case is transcribed it shall be the duty of the official stenographer to lodge the same with the prothonotary or clerk of the Court, and notify the parties interested or their counsel, that the same will be duly certified and filed so as to become part of the record, if no objections be made thereto within 15 days after such notice. If objections be made the matter shall be heard by the Court, and such order made regarding the same as shall be necessary in order to comport with the occurrences at the trial. If no objections be made, or when after objection the transcript shall have been so made to comport with the occurrences at the trial, said transcript shall be duly certified by the official stenographer and by the trial Judge, shall be filed of record in the case, and shall be treated as official and part of said record for the purposes of review upon appeal, and shall be considered as *prima facie* accurate whenever thereafter offered in evidence in the same or any other proceeding, without the necessity of calling the stenographer as a witness to prove the same.

SECTION 5. The appellants and appellees, by writing filed and approved by the lower Court, may agree that any part of the evidence appearing in the transcript as certified and filed, shall be considered as excluded therefrom upon the review of the case by the Supreme Court or Superior Court, and, if they cannot agree, the Court below upon motion of appellants and notice to appellees may order that any part or portion of the evidence may be omitted by appellant in printing the transcript for the purpose of review

in such case. Provided, however, that appellees may themselves print such evidence, which printing shall be at their own expense unless it be otherwise ordered by the Appellate Court, or the Appellate Court may order any part or all thereof to be printed by appellant whenever said Court shall deem it necessary so to do.

SECTION 6. Whensoever the decision of a Court of record shall appear in the proceedings of a case, it shall not be necessary for the purpose of a review of that decision, to take any exception thereto, but the case shall be heard by the Appellate Court with the same effect as if an exception had been duly written out, signed and sealed by the Court.

I move the adoption of the Act.

Duly seconded, and agreed to.

ALEX. SIMPSON, JR., *Chairman*, Philadelphia: The fourth subject considered by the Committee grows out of a resolution asking that the Committee consider and report on the advisability of recommending an Act of Assembly providing for supplementary proceedings after the entry of judgment against a defendant in any action. This is a very broad subject which the Committee discussed at considerable length, but regarding which we were not able to reach a definite conclusion, and therefore ask that the matter be continued until the next meeting.

WALTER GEORGE SMITH, Philadelphia: I move accordingly.

Duly seconded, and agreed to.

ALEX. SIMPSON, JR., *Chairman*, Philadelphia: The fifth subject grew out of the resolution requesting us to consider the advisability of drafting an Act enabling the Court in certain cases to strike off a mechanics' lien filed in violation of a written agreement containing a waiver of the right to file the lien. One of the curious things about that resolution grows out of the fact that there is just such an Act now upon the statute books, and it is, therefore, in precisely the same boat as the matter referred to by Judge

Endlich yesterday. Curiously enough one of the members of your Committee on Law Reform was of counsel in the case which called forth the resolution of Mr. Page; and neither the Court below nor the Supreme Court, nor counsel on either side, ever discovered that Act. The member of the Committee on Law Reform, who now knows of the Act, is also of the opinion with the rest of the Committee, that they ought to be discharged from further consideration of a subject already provided for.

THE VICE PRESIDENT: The Supreme Court decided the question, too.

WILLIAM U. HENSEL, Lancaster: It is not at all strange that the Supreme Court should overlook that, but very remarkable that a member of the Committee on Law Reform should overlook it. I want to say, however, that the case has practically been reargued in the Supreme Court, and the decision is expected next Friday. I have reason to believe that there is doubt in the minds of members of the Supreme Court, as well as members of the profession, as to whether or not the Act does bear the construction that the Chairman of the Committee on Law Reform puts upon it. But, be that as it may, inasmuch as the question is now pending before the Supreme Court, and no judgment can be entered before this Association adjourns, I move that the consideration of the subject be left in the hands of the Committee for the present, instead of the Committee being discharged.

Duly seconded, and agreed to.

ALEX. SIMPSON, JR., *Chairman*, Philadelphia: The last subject before this Committee is one which we will not at this time ask the Association to consider, in view of the large amount of work before us, and will ask that that matter be continued until next year.

WILLIAM W. RYON, Northumberland: I so move.

Duly seconded, and agreed to.



THE VICE PRESIDENT: The next report for consideration is that of the Committee on Legal Education.

JAMES M. LAMBERTON, Dauphin: There is no action required by the Association on that report.

THE VICE PRESIDENT: The next report for consideration is that of the Committee on Legal Biography.

EDWARD W. BIDDLE, *Chairman*, Cumberland: Our report was printed, and I think no further action is required, except in relation to making an appropriation. We ask an appropriation not exceeding \$750 for the coming year.

JOHN WEAVER, Philadelphia: I move such an appropriation be made.

Duly seconded, and agreed to.

THE VICE PRESIDENT: The next report for consideration is that of the Committee on Admissions.

EDWARD J. FOX, *Chairman*, Northampton: As the Chairman of the Committee on Admissions, I would like to bring to the attention of the Association a fact that has been brought to the attention of the Committee, and that is that there seems to be a feeling among the younger members of the Bar that it is not desirable that they should join this Association. That is a very grave mistake, and we would be very much obliged if the members of this Association throughout the various counties would do what they can to correct this mistaken impression.

THE VICE PRESIDENT: I have no doubt the members will take the hint.

The next report for consideration is that of the Committee on Grievances. If there is nothing in that report requiring action, the consideration of the report of the Committee on Uniform State Laws is in order.

WALTER GEORGE SMITH, *Chairman*, Philadelphia: I would ask the members of the Association who have copies

of the printed report in their hands to turn to page 7, and on the third line strike out the word McPherson, and write the word James, and on the eighth page strike out the word McPherson wherever it occurs and insert the word James. I would also ask them to turn to page 29, section 23, of the pamphlet, and note the omission of paragraph (a), which should read "The consignee named in a non-negotiable bill, or." \* With those corrections, I formally move the adoption of the following resolution:

*"Resolved, That this Association approves the draft of an Act prepared under the direction and recommended by the Conference of Commissioners on Uniform State Laws in national conference, entitled 'An Act to make Uniform the Transfer of Shares of Stock in Corporations.'"*

Duly seconded.

WALTER GEORGE SMITH, *Chairman*, Philadelphia: The report of the Committee recommends the adoption of two Acts: one on the subject of the transfer of certificates of stock, and the other on bills of lading; and I have just moved, and the motion has been seconded, for the adoption of the first of these uniform Acts. Obviously it would be impossible at this time to take up this Act section by section, and give it the careful, thorough study and examination that would be desirable were it not for the history of the Act as it has been spread before you in the report of the Committee. You have already approved the Warehouse Receipts Act, the Sales Act, and the Uniform Divorce Act that have come from the same source as this Stock Act. You are familiar with the methods whereby these Acts are prepared. An expert on these questions, in this instance Professor Samuel Williston, of the Harvard Law School, first prepares a draft or act which is submitted to the Committee on Commercial Law, then to the

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\*The corrections referred to by Mr. Smith have been made in the copy of the report as now printed at page 109 of this book.

Conference of Commissioners on Uniform State Laws. The State of Pennsylvania is represented in that body by a board of three Commissioners, appointed by the Governor and confirmed by the Senate; and therefore anything emanating from that conference comes certainly with a *quasi* official authority before this Association. It is not necessary that these bills should be submitted here; but this Association has been the fostering parent of uniformity of legislation, so far as this State is concerned. Had it not been for the Pennsylvania Bar Association's action recommending the revival of a law that had ceased to be upon the statute book of Pennsylvania, the cause of uniformity would not have made as much progress as it has. Therefore, it seemed to the Commissioners eminently proper that, whenever the Legislature of Pennsylvania is asked to pass on any one of these uniform acts, it should first come before this body; and your appreciation of the importance of this subject is shown by the fact of your appointing a standing committee on Uniform State Laws. These Acts have been before the Committee on Commercial Law of the Conference of Commissioners literally for years; they have then been gone over section by section by the Conference itself. They are intended to put in the form of a statute principles of law already in existence; but sometimes it will happen that in response to the business sentiment of the country a step is taken in advance, and this Act marks a step in advance; because, if adopted, it will make certificates of stock to all intents and purposes negotiable instruments with the same characteristics as promissory notes. That is a very considerable step in advance; and it would not be candid if it were not presented by the Committee fairly and squarely to the judgment of the Association.

Another notable thing about this Act is the definition of value, which you will find on page 20 of the printed pamphlet, so far as it relates to certificates of stock—"Value is any consideration sufficient to support a sim-

ple contract. An antecedent or pre-existing obligation, whether for money or not, constitutes value where a certificate is taken either in satisfaction thereof or security therefor."

That note runs all through the commercial acts that have been adopted by the Conference of Commissioners on Uniform Laws, excepting with regard to warehouse receipts. A warehouse receipt in the hands of a thief or a finder is not negotiable; but the American Bar Association, criticising the Warehouse Receipts Act, recommended to the Conference of Commissioners that, as regards bills of lading and stock certificates, they should be fully negotiable.

These Acts were put forth only last August, and, as you are aware, comparatively few of the States held sessions of their Legislature during the past year; but among those States were the important ones of Massachusetts and Maryland. Massachusetts has adopted this Act, and Maryland has adopted this Act, and so with regard to the Bills of Lading Act.

It would seem superfluous for me to go over what has been in print and what has been before the members of the Association for so long a time. I can only ask that this resolution be adopted, carefully explaining to the Association, in order that the members may thoroughly understand the weight of what they are voting for, that it will make certificates of stock fully negotiable.

JOHN WEAVER, Philadelphia: I move the adoption of the resolutions as to both Acts, so that they can come up together. Both seem excellent Acts, and I do not believe anybody will have any objection to that.

THE VICE PRESIDENT: That is in the nature of an amendment. Will the Chairman of the Committee accept the amendment?

WALTER GEORGE SMITH, *Chairman*, Philadelphia: I am willing to accept it.

Amendment seconded.

THOMAS S. BROWN, Allegheny: I would like to ask the Chairman of the Committee with respect to the operation of the 13th section of the Stock Transfer Act. The section provides that "no attachment or levy upon shares of stock for which a certificate is outstanding shall be valid until such certificate be actually seized by the officer making the attachment or levy, or be surrendered to the corporation which issued it, or its transfer by the holder be enjoined." I would like to ask the Chairman what the view of the Committee is as to the effect of that section upon the existing law in Pennsylvania as to the attachment of stock held in the name of a third person. It does not seem to me that this Act provides for that at all, but the enabling clause possibly carries it without it.

WALTER GEORGE SMITH, Philadelphia: It would seem to me that a statute of this sort can only deal with legal title. If the stock is in the hands of a third person, you have got to consider, so far as the legal aspect of the matter is concerned, that the stock is owned by that third person; it could only be equitably transferred, it could not be shown to be the property of another owner.

THOMAS S. BROWN, Allegheny: There is a statute on this subject in Pennsylvania, and I do not think this Act would repeal that statute.

HENRY BUDD, Philadelphia: I would like to ask this question, if the proposed Act as to transfer of stock by transfer of certificate be adopted, how do we, under the Act, raise the equity of any person in it giving any value whatever.

WALTER GEORGE SMITH, Philadelphia: It could not be done.

THOMAS J. MEAGHER, Philadelphia: May I ask, with respect to Mr. Weaver's motion, about this transfer of stock. In section 1, speaking of transfer of shares, it says that may be done by delivery of the certificate and a separate document containing a written assignment or power of attorney to sell, assign or transfer. We have heard a good deal about the care with which this Act was prepared. Speaking for myself, I am entirely out of tune, out of accord with this uniform State legislation business, because I think, taking the Uniform Divorce Act, it is a monstrosity, to say the least of it, or to speak kindly of it. We are told this was prepared with a great deal of care, yet I see here these experts that prepared these Acts talk about the delivery of a certificate and a separate document, speaking of the transfer of the shares represented thereby. In other words, the language is, "or to sell, assign or transfer the same or the shares represented thereby." In other words, we are to understand by a separate document, if somebody seeks to transfer a share of stock or certificate of stock, that he may not transfer the certificate but transfer the shares represented by that certificate, without transferring the certificate; and yet we are told this is an Act designed to make shares of stock negotiable. How is it possible to reconcile that language? If you cannot transfer shares represented by the certificate without transferring the certificate, how it is possible to conceive of transferring those shares without transferring the certificate and then speak of the Act making shares of stock negotiable? I make that inquiry of the Chairman.

WALTER GEORGE SMITH, Philadelphia: I can but express my admiration of the acuteness of the gentleman's criticism. In drawing these statutes it is desired to make the language as comprehensive as possible. You will notice the Act says, "Title to a certificate and to the shares represented thereby can be transferred only, (a) by delivery of the certificate, etc., or (b) by delivery of the certificate

and a separate document containing a written assignment of the certificate." That language seems to me clear and comprehensive. As to the gentleman's personal views with regard to uniform legislation, I do not think it entirely pertinent for me to discuss them.

The question being upon the adoption of the resolutions moved, as follows:

1. "*Resolved*, That this Association approves the draft of an Act prepared under the direction and recommended by the Conference of Commissioners on Uniform State Laws in national conference, entitled 'An Act to make Uniform the Transfer of Shares of Stock in Corporations.'"

2. "*Resolved*, That this Association approves the draft of an Act prepared under the direction and recommended by the Conference of Commissioners on Uniform State Laws in national conference, entitled, "An Act to make Uniform the Laws of Bills of Lading.'"

it was agreed to.

WALTER GEORGE SMITH, *Chairman*, Philadelphia: It has happened occasionally that amendments have been sought to these Acts, notably one in Pennsylvania to the Negotiable Instruments Act. Even with the care given to these uniform Acts there will sometimes be some *casus omissus*, some change of circumstances, and it will sometimes be necessary or desirable, or thought to be so, to amend these Acts. The great object of uniform legislation has been so fully gone over it is not necessary to take up time with reference to it now. But when such a case as that to which I have referred arises, it seems desirable that the Conference of Commissioners should be given authority to consider the proposed amendment before it is adopted. This suggestion was made at a Conference held in Washington under the auspices of the National Civic Federation, a body of patriotic, public-spirited men and women, who, probably oblivious of the fact of the existence of the Conference on this subject, called a special conference to con-

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sider the whole subject of uniformity. That conference was attended by some five hundred men and women, was addressed by the President of the United States, by Senator Root, and by various representatives of special interests. At that time there was a Conference of Governors being held in Washington, attended by thirty-one Governors, The conference of the Civic Federation adopted a resolution approving all of the uniform acts, except that on the transfer of stock, and that was held up for further consideration, and it recommended the adoption of a resolution, which I now move, as follows:

*"Resolved, That this Association cordially approves the recommendations of the Conference held under the auspices of the National Civic Federation at Washington, on January 17, 1910, in relation to Uniform Amendments, as follows:*

*'Resolved, That, if any person or organization, after studying the laws submitted by the Conference on Uniform State Laws, think that any of them need amendment, such persons and organizations be earnestly urged to try to bring about such amendment through the National Conference of Commissioners on Uniform State Laws, to the end that, even in amendment, uniformity may be preserved.'*

*and commends the same to the Legislature and Governor of this Commonwealth."*

Duly seconded; and a division being called for upon the vote taken thereon, there were sixty-four yeas and ten nays, whereupon the Chair declared the resolution agreed to.

THE VICE PRESIDENT: The next report for action is that of the Special Committee on Comparative Jurisprudence.

CHARLES WETHERILL, *Chairman*, Philadelphia: The Committee's report is in print, and before you. The Committee first reports the completion of the work to which it was originally appointed—the translation and publication of the German Imperial Code. That has taken more than three years of time. At the last session of this Association



this Committee brought to the notice of the body the British Statutes on the subject of repeal of obsolete and needless legislation, and that matter was referred back to this Committee with direction to report such acts as might be found necessary on the subject. If you will refer to the printed report you will find that there has been no examination made of our statutory law for the purpose of reporting for repeal that which is obsolete or needless. Even if that were done, there is still the confusion in the mind of counsel arising from what might be called the redundancy of statutes—several statutes, or in some cases very many statutes, being in force regulating the same subject. And we advise that, first, there should be an examination for repeal of those statutes which have become obsolete or needless, and then that, as to the statutes remaining, there should be an examination of the various heads of legislation, and, so far as possible, as to each principal head of legislation, a unification of those various statutes into one plain, simple statute on each subject, repealing or supplying the other acts. It was also evident to us that a work of this kind would involve a long time and great labor, labor that ought not to be committed to any but a government commission, so that we have reported in favor of the application to the proper powers to authorize the Governor to appoint a Commission for this purpose. These are the facts, and the resolutions which bring the matter up read as follows:

(1) *Resolved*, That this Association recommend to the Legislature at its next session that it provide for the appointment of a Commission on the Revision and Unification of the Statutory law.

(2) *Resolved*, That the President appoint a special committee of five members to draft and present to the next Legislature an appropriate Act authorizing the Governor to appoint a Commission to examine and consider the statutes in force, report those Acts proper to be repealed as obsolete or needless and prepare a concise and practical Revision and Unification of the Statutes of Pennsylvania not so reported for repeal.

(3) *Resolved*, That this Committee be discharged.

I take personal pleasure in thanking my colleagues, and in thanking very many members of this Association, who have, during the years we have been serving, shown a kindly interest, friendship and support of our work in making this our final report of the Committee of all things a very great pleasure.

JOHN WEAVER, Philadelphia: May I ask the Chairman of that Special Committee whether the use of the word "codification" instead of unification or revision would not cover the ground suggested? I understand from Mr. Wetherill's report that what the Commission will report shall practically be a codification, rather than a revision and unification.

CHARLES WETHERILL, Philadelphia: In reply to the question, I would say that the word codification was expressly left out of our resolution, for the purpose of pointing out that this is not a step towards a codification, or towards a document revising the statutes merely, but such as our report says—a comprehension of numerous statutes covering the same subject into one statute. Take, for instance, the cloud of statutes on the subject of the taking of property by corporations, municipal and public service corporations, under the right of eminent domain. I do not suppose it is a matter for argument here, but that it would be well if those statutes could be collected, revised and re-drafted into one comparatively short and carefully drawn bill supplying all those matters of legislation. Such a result obtained would be very valuable. That is the work which is pointed out, indicated and advised in this report. Hardly a session of this Association, which I have had the pleasure of attending, has been held at which I have not heard some gentleman get up and say that we had too much statutory law already, and probably twice or three times as much as we ought to have; but I have never before heard any movement suggested towards a careful examination of that which ought to be repealed, and I think it is not too

late now to suggest it. I hope this is the proper time for suggesting it, and I think we are taking a step in the right direction in this report.

JOHN B. COLAHAN, JR., Philadelphia: I move the adoption of the resolutions reported.

Duly seconded, and agreed to.

THE VICE PRESIDENT: The next report for consideration is that of the Special Committee on Legal Ethics.

NATHANIEL EWING, *Chairman*, Fayette: It is to be assumed, by reason of the appointment of a Special Committee on Legal Ethics, that this Association is committed to the adoption of some ethical Code. Upon looking over the record I can find no absolute decision of that character, no definite course laid out by this Association. In view of the discussion which occurred on this subject last year, and probably more will take place this year if the matter is taken up, I think it would be well to ascertain the disposition of the Association towards the adoption of a Code of Ethics, or a body of ethical precepts, or a Code for the legal profession; and, therefore, in inaugurating the discussion on this subject, I move the adoption of a resolution to the effect that it is the purpose and intention of this Association to proceed to the adoption of a Code or body of precepts upon legal ethics.

Duly seconded, and agreed to.

THE VICE PRESIDENT: Has the Committee a Code to present?

NATHANIEL EWING, *Chairman*, Fayette: I move the adoption of the body of precepts prepared by your Committee on Legal Ethics.

ALEX. SIMPSON, JR., Philadelphia: I second that motion.

EDWIN Z. SMITH, Allegheny: I have the honor to be a member of the Special Committee appointed to prepare a Code of Ethics to be adopted by the Bar Association, and,

failing to agree with my colleagues as to their report, I desire to call attention to the minority report read yesterday; and now move, in accordance with that report, to amend the pending motion by substituting the following:

Resolved, that the minority report of the Special Committee on Legal Ethics be adopted.

GEORGE WENTWORTH CARR, Philadelphia: I second that motion.

THE VICE PRESIDENT: The amendment is now before the Association; has any member any remarks to make thereon?

ALEX. SIMPSON, JR., Philadelphia: I have some remarks. I hope there will be a good many—I do not mean of mine—but a good many from this Association, because it seems to me this is a subject which ought to be threshed out to a conclusion, after a full consideration of it. I am not going to repeat, if I can avoid it, anything that was said at the meeting last year, assuming, though it is a very violent assumption I admit, that the members read the report of last year, or heard the argument, and are prepared thereby to vote now upon the subject.

From the minority report that Mr. Smith has presented to you, and from the debate of last year, it is evident that there are two underlying thoughts in the minds of members who are in favor of the minority report, and two only, so far as I can see. The first is that it is desirable to have uniformity. Well, I am prepared to agree that it is desirable to have uniformity on as many subjects as you can reasonably get uniformity on, provided that uniformity gives you the best which can be had; and that it is advisable to have uniformity, notably in statutes wherein the subject-matter is a matter which pertains not merely to one State, but as between citizens of States, so that the interstate relation shall, so far as may be, be kept the same.

But I do not think that a question arising on a Code of Ethics has any real reason back of it requiring uniformity.

And I do not think that the Code of Ethics of the American Bar Association is equal to—I think it is far from being equal to—the Code which has been submitted by the majority of the Committee, and which is now under consideration. It would be, perhaps, an ungracious thing; it would be perhaps an unkind thing; it would be perhaps an unnecessary thing to refer to all the differences which exist between the two Codes. But there are some things which stand out right on the surface, and which illustrate forcibly the position which this Committee take in regard to it. I suppose it will be conceded by everybody that, if you can express a thought in a single sentence, it is infinitely better to have that single sentence to express the thought, than to have fifteen or twenty sentences, all of which, more or less, qualify the thought, and all of which, more or less, introduce confusion into the subject. The multiplication of words necessarily means confusion. It cannot be otherwise, so long as words are merely vehicles for the expression of a thought. Now I want to illustrate the thought I have on that point by reading a sentence—no, a fraction of a sentence—from the twenty-second section of the American Bar Association's Code. The twenty-second section of the Canons of the American Bar Association says, "It is not candid or fair for the lawyer knowingly to misquote the contents of a paper, the testimony of a witness, the language or the argument of opposing counsel, or the language of a decision or a text-book." Is there any man in this room who would undertake to say that that expresses his thought? Is there any man in this room who will undertake to say that that is not infinitely better expressed in the words, "It is not honest for the lawyer to misquote," etc. I do not believe in handling words in such a way as to leave a doubt in anybody's mind. Can anybody doubt for a moment but that it is grossly dishonest for a lawyer knowingly to misquote the contents of a paper, etc.? The Code submitted by your Committee does not leave any doubt about that. They put

it squarely; they say it is dishonest. That is only one illustration. Is this Association prepared to adopt a Canon of Ethics—I do not care by whom else that canon has been adopted—which so palters with that which is right at the root of a proper administration of justice, which so palters with that which is right at the root of the honesty of the individual lawyer? If you are prepared to do that, then the canons adopted by the American Bar Association ought to be approved, and Mr. Smith's resolution adopted. If you are not, then there necessarily has been written out of the minority report, and there is necessarily written out of the argument presented on the other side the wisdom of adopting the Canons of Ethics of the American Bar Association, purely on the ground of uniformity.

I want to know from the members of this Association whether or not, if one of their assistants were to come into his office, and put to him an ethical question, he will not find it infinitely better to turn to the Code presented to this Association by the majority of the Committee, and read a single sentence to that assistant to express the answer to the question that is put, than to read one of these canons, a dozen, twenty, thirty lines—or perhaps half a page long—and then go into an elaborate explanation of what those words do mean.

Mr. Smith, in his minority report, with that kindly way which is of course always a part of himself, undertakes to take a whack, if I may use that expression, at what has been put forward from time to time as one of the particular merits of the Code submitted by this Committee; that is, that the Code is epigrammatic in form, and he does not see any benefit in anything that is epigrammatic. Well, perhaps he does not. He certainly, as he said, did not make his report epigrammatic, for it reminds one very forcibly of one of Evarts' speeches; it runs from beginning to end without any period, very few commas even finding their way in it. You have got to guess where the real division of the

sentences comes, just exactly as you have to guess in these canons where the real division comes, in order to be able even to properly read them. Who is there—is there anybody who does not know that a single sentence, limited to a few words, if you choose, if accurately expressed, tells infinitely more than many words? Mr. Derr, last year, I think, illustrated this from the Ten Commandments. “Thou shalt not kill.” You may talk forever upon the subject of murder, you will never reach anything as epigrammatic, or as correct, or as easily understood, or more valid for the purpose for which it is put forth, than those four words. What is there that has lived in literature? It has been almost entirely the epigrammatic expressions. One of the members last year—I think he is not here to-day—referred to the Code presented by your Committee as reminding him of the Song of Solomon and the Rubaiyat of Omar Khayyam. Well, they have lived; they have filled the purpose for which they were put forward. Is it not the very merit of the form of expression in them that has made them thus to live? It seems to me that this is so; and, Mr. President, it does seem to me that this is infinitely better, laying aside every question, considering every argument, if you choose, that can be put forward, that the report of the majority should be adopted; and, for that reason, I shall vote against the minority report.

GEORGE WENTWORTH CARR, Philadelphia: In rising in support of the Minority Committee, I would first direct the attention of the Association to the fact that, notwithstanding the ingenuity of Mr. Simpson’s argument, he has failed to show wherein the Pennsylvania Code corresponds to the section of the American Bar Association’s Code under criticism.

ALEX. SIMPSON, JR., Philadelphia: Read Section 84, then you will find it.

GEORGE WENTWORTH CARR, Philadelphia: I am going to read Sections 83 and 84 of the Pennsylvania Code. Sec-

tion 83 says, "A lawyer must not intentionally deceive the Court." That is a very wide statement, and really means nothing. Section 84, "He must not only avoid falsehood; he must be careful not to misquote the law or to misstate facts, always remembering that an inaccurate statement accepted and acted upon is as injurious in its effect as deliberate falsehood." I do not know to whom it is injurious—to the man who makes the statement, the Court, or the client. Now, the section Mr. Simpson criticises is plain and simple. No tyro will have any difficulty in understanding what the section of the American Bar Association Code quoted by Mr. Simpson really means. They say to a young lawyer, you must not deceive the Court, but does not tell that young lawyer of what the deception may consist. The report of the majority of the Committee uses this language, "Nor is it any reflection upon any other body of men that this Association should adopt principles of legal ethics differing in expression from theirs. The substance of all is practically the same." In other words, the majority of this Committee say that their proposed Code is in substance the same as that of the American Bar Association. Now, gentlemen of the Association, in 1899, I think, this Association created a Special Committee on Uniformity of Legislation, and about 1902 recognized that its work was so important that, by amendment to the By-Laws of the Association, it made that Committee a standing Committee. When we ask for legislation affecting the rights of laymen, we say, through that Committee, through those resolutions, that amendment of by-laws, that uniformity of legislation is excellent. When we are asked to legislate for members of our own Bar, I say this uniformity of legislation is equally excellent. And it seems to me it would be ridiculous for this Association to say that we will have a little Code of Ethics all to ourselves. I would agree with my friend if his Committee proposed a Code which exacted a higher standard of morals from the members of the Pennsylvania



Bar. But no such claim is made for the Code. The Committee says it is the same, excepting that a more felicitous manner of expression is used. Now, this question of ethics has been under consideration by the American Bar Association for many years, and the Code approved by that Association has been adopted by sixteen or eighteen States already, Maine, Indiana, Iowa, Florida, Kansas, New York, Connecticut, South Dakota, Ohio, Washington, Tennessee, Nebraska, and, only a few weeks ago at Atlantic City, the State Bar of New Jersey adopted the Code. It has also been adopted in the City of Boston where, as all of us know, the standard of professional ethics is extremely high. The Bar Association of the City of Boston adopted the Code, for there is no State Bar Association in Massachusetts.

THE SECRETARY: There is now, having been recently organized.

GEORGE WENTWORTH CARR, Philadelphia: There was none at the time it was adopted by the Association in the City of Boston; and there are eight or ten other States which have adopted it. It seems to me that a Code so easily understood by the ordinary intelligence, adopted by almost all the important States at the suggestion of the American Bar Association, would, if we were to put ourselves in line with those other States and give our sanction to it, be likely to impress the mind of the young lawyer much more forcibly than a Code whose application would be limited to the State of Pennsylvania.

EDWIN Z. SMITH, Allegheny: I have no apologies to make to this Association for the form in which the minority report is couched. While my friend and colleague on the Committee has thought fit to criticise, in his customary kindly manner, the sentences in that report, I think that, though not couched in epigrammatic form, it has carried to this Association the intention with which it was framed. I do, however, desire, if you will permit me, to make a per-

sonal explanation. They are always obnoxious; but I think my attitude in having my name appear upon the report of this Committee for 1909, as reporting and endorsing practically the same Code as that presented to the Association on this occasion, perhaps requires explanation. My colleagues on the Committee will bear me out when I say that I have been from the first opposed to a separate Code of Ethics for Pennsylvania, unless it was transcendently superior to that of the American Bar Association. When this matter was first thrown into the mill, the American Bar Association was at work upon its Code; it had not yet been produced, it had not yet been adopted, and my own thought was that we should wait until that Code was produced, and then accept it if it was at all within reach of what we wanted. I so expressed myself at the meeting of the Committee winter before last; and, in order to place myself on record, made to the Committee a motion that the American Bar Association's Canons of Ethics should be substituted as the report of the Committee. One of the gentlemen of the Committee courteously seconded that motion, and it was unanimously voted down. Thinking then that the members of the Committee fairly represented what I might expect to find in the Association, I voted along with the majority in order to consort with what is known to be my well-known good humor; and when the report came before this Association and I found a very decided difference of sentiment on the matter, and very strong attacks made upon the Code of Ethics we had presented, you will readily see that my mouth was closed. I could say nothing in expression of my views. But, when the report was recommitted, believing that the matter was then on new ground, I took the occasion, which you see now, of filing this minority report. I believed at the beginning, and believe still, that uniformity with the Bar Associations of other States is a valuable and desirable thing; and I believe that, unless the Code of Ethics presented by this Committee is very much superior in form and expression

and ground to the American Bar Association's Code, we should adopt the latter for the sake of being in line with our brethren of the profession all over the country.

I spent an hour last night in checking back and forth these two Codes, and I believe there are very few ideas which are not covered in both Codes. There are so few not covered by the American Bar Association's Code that I think I may venture to call your attention to them, and you can form your own conclusions of the importance of their being included. Under the title, Duties of Lawyers as Members of the Community, section 15, says, "He should avoid even the appearance of acting contrary to law or good morals." Is it necessary to include that injunction in a Code of professional ethics? In honesty I will say that paragraph 7, "He should not suggest his own appointment as executor, administrator or trustee of his client's estate or property," is omitted from the American Bar Association's Code, and in my opinion should be included in it. I do not think I have found anything else. Paragraph 12, "He should banish pride of opinion, which, when he is wrong, will make it difficult or impossible to become right." Is that an expression suited for a professional Code of Ethics? The second half of paragraph 18, "But he should never advert thereto [the wealth or influence of the adversary or his client] merely for the purpose of evoking prejudice, though he may temperately do so if pertinent to the case and the evidence sustains them." Section 24, "He should never knowingly allow a near relative or strong personal friend of himself or of his client to remain upon the jury, without notice to the opposite side before the jury is struck." I am not sure that we should go so far. "27. Treating jurors after a verdict is in bad taste, and before their verdict is recorded is absolutely wrong." This idea is covered by the American Bar Association's Canons, and I doubt whether it should have been included in it, but it is certainly covered in very much more dignified language. Paragraphs

29 to 32, with respect to the private personal interests of lawyers, are not included in the purview of the American Bar Canons, and they read as follows:

"29. A beginner at the Bar should set up for himself a high standard.

30. He should live with such moderation as will enable him to pay expenses and keep his mind free.

31. He should not engage in strictly speculative ventures, especially those in which his clients are interested."

Apparently a beginner should not do that, but the professional may.

"32. His ambition should be for the highest possible development of his mind and the attainment of the loftiest position in the profession possible to him."

Nor should that, I think, be restricted to the beginner.

"44. Litigation should not be initiated, or a compromise effected, without the client's full knowledge and consent.

45. In dealing with clients unfamiliar with business methods, the lawyer should be especially careful to do nothing tending to impair their confidence."

That might well be omitted as surplusage.

"64. A retainer for contemplated services which the lawyer's circumstances subsequently prevent him from performing, should be returned to the client."

Does it require a Canon of Ethics to express that idea? Surely not.

"70. Important agreements affecting a client's rights should not be made without the client's intelligent consent."

That again I think is surplusage.

"73. He may agree to a continuance when it is unlikely that a cause upon the list will be reached."

I do not know exactly what that is intended to cover, but I doubt whether it is necessary in a Code of Ethics.

"77. It is the duty of lawyers to encourage and support the Judges in their efforts to compel adherence to the principles of right conduct."

I admit that is a good statement of true ethics, and might well be in the American Association's Canons.

Sections 80 and 81 are not fully covered by the American Bar Association's Code, although there are general statements which cover both. Section 82 is covered. Section 85, "When a fact is not recent, he should not speak confidently concerning it, before verifying his recollection by reference to records or writings, if there be any, or by comparison of his impressions with conceded facts."

I would doubt the propriety of that sentiment in a Code of Ethics. It certainly is not epigrammatic.

Section 88, "It is one of the duties of a lawyer to be industrious and painstaking in the preparation of matters to be brought before the Court." Is that a matter of ethics?

I will not make myself tedious—any more tedious than necessary, I should say—by turning to the American Bar Association's Code of Ethics, and reading from that the number of subjects which are covered in it but not by the Committee's Code; but there are many. Part of section 1, part of section 2, part of section 3, part of section 5, part of section 7, part of section 11, part of section 12, part of section 15, part of section 18, part of section 22, part of section 29, part of section 32, cover, perhaps, in undue prolixity, but nevertheless cover, points of importance not included in the Code reported by our Committee.

We have, therefore, two documents covering, to all intents and purposes, the same ground, in one of which certain principles are omitted and in the other certain principles are omitted, and the contrary. It seems to me, then, that, if the American Bar Association's Canons sufficiently cover the ground, without but these few points, no exceptions can

be filed; and that we should, for general reasons, accept it, and stand with the great majority of the States. I understand many have accepted it and others are on the point of doing so. Thus we shall adopt a uniform Code which expresses the thoughts of lawyers on this very important subject.

As to form—while I will grant that the epigrammatic form sometimes has its uses, I do not think you ought to carry it too far. I have no criticism to make upon the promoters of the Decalogue, but I believe that, in the light of modern feeling and conscience, if the injunction alluded to in the majority report—Thou shalt not kill—had been so far amplified as to except defense of one's self or his family, or in war for one's country, that that departure from the epigrammatic would not be criticised. And I would call your attention to the fact that these same promoters of the Decalogue, if they be held up as exemplars of style, have given us an injunction like this—"Remember the Sabbath day, to keep it holy; six days shalt thou labor, and do all thy work: but the seventh day is the Sabbath of the Lord thy God: in it thou shalt not do any work, thou, nor thy son, nor thy daughter, thy manservant, nor thy maidservant, nor thy cattle, nor thy stranger that is within thy gates: for in six days the Lord made heaven and earth, the sea, and all that in them is, and rested the seventh day: wherefore the Lord blessed the Sabbath day, and hallowed it." Surely not epigrammatic, and yet it might be amplified to include "except works of necessity and mercy." And the last article of that same Decalogue is not in the epigrammatic form. The epigrammatic form is very well in its way, it is very well in its place, but I believe its place is not here. I believe that the Canons of Ethics formulated by the American Bar Association, a representative body, composed of men from all the States, is a dignified document, if sometimes prolix, fairly and with sufficient fullness expresses sentiments common to all of us in the profession

on the question of ethics ; and I believe, therefore, that there is no sufficient reason for adopting a Code of our own, simply because it has some advantages in form. I will say to you, gentlemen, that this Code of Ethics is infinitely better than the original Code presented by this Committee, and that advantage and improvement has come by taking out a great deal and amplifying a very little. I am in favor of substituting for the Code, presented by the Committee, the Canons of Ethics adopted by the American Bar Association and by many of the States of the Union, and I shall so vote.

ROBERT RALSTON, Philadelphia: I would like, with great respect to the Committee, to call their attention to one or two small matters in this Code. I would ask your attention to the paragraph in the introduction to the Code, "The legal profession, which for generations has been growing in importance at a pace proportionate to the advance of civilization, will continue so to grow as wars pass into desuetude, and as all the conflicts of the battlefield are being transferred to the courts of justice, their subject-matters to be discussed by lawyers and passed upon by Judges, like causes between man and man." Gentlemen, on reading that paragraph, I had an innate consciousness that it contained some strong and patriotic sentiment, but upon examining it closely, I cannot, for the life of me, understand what it means. The subject-matters of the battlefield are to be transferred to the Courts? Whether that is the meaning of it, I do not know. What is the meaning of it? If any gentleman can make that sentence read with any kind of construction, it is more than I can do. Another matter—at the end of the introduction to the Code—I am speaking of some small, trifling matters ; but if this Code of Ethics is to be adopted by the Bar of Pennsylvania, it seems to me it ought to be at least couched in very carefully drawn, very excellent language—"Because it is difficult always to discern what is right to do;" is that a very elegant expression, do you think? Could not this Committee, composed of

these eminent scholars and lawyers, devise a little better language in which to express their thought upon that point? Another, in section 11 of the Code: "He may exercise the function of an advocate outside the Courts, but when he does so professionally, he should state for whom he appears." How is the profession of an advocate to be exercised outside of Courts? I do not exactly know. And how "appear"? Appear is a technical word, with which you are all familiar. A man enters an appearance; he appears in Court; that is technical. But exercising the functions of an advocate professionally outside of Court, he must state for whom he appears. I think that should be amended. If it means that he must state for whom he is acting, it should say so; or whatever it does mean might be stated a little more clearly. "15. He is best advertised by a well-merited reputation for high character and professional ability, but a modest advertisement of his profession is allowable." I think the Bar of Pennsylvania should be very slow to endorse a system of practice of advertising by lawyers. As to what exactly would be a modest advertisement of his profession, I suppose would differ according to the character of different people. One man might have his name in an obscure corner of the paper, indicating to those who searched diligently for it that he was a lawyer ready to attend to whatever business would come to him. Another man might think it modest to hang a banner, perhaps, across the street; another man, like some of the people in beautiful towns in the country, might wish to have his name painted upon the rocks. I think it would be a great misfortune for this State Bar Association to say that advertising was to be endorsed as proper to a lawyer. I therefore object to that on point of merit.

Now, gentlemen, if you will turn to section 52 of the Code: "If interests adverse to his client are unavoidably devolved upon him," I think should be a little more elegantly expressed. Section 80, "or cherish it being there," is also



rather awkward. Section 101—but this time it is not the lawyer; it is the Judge—"he should reflect upon and imbue his mind with a full and accurate understanding of the inter-related constitutional mandates against sale, denial, or delay of justice, always remembering that between denying or delaying justice and selling justice, there is no substantial difference to the party injured, the cases being discriminable only by the presence or absence of reward to the Judge." Gentlemen, is it possible that the Bar of Pennsylvania can say that delay in justice may be unnecessary, or may be from laziness, if you please, on the part of the Judge? Or is it possible that this Bar is going to say that delaying justice is the same thing as corruption, or selling of justice? It says there is no substantial difference to the party injured. Now, the party injured, outside of his rights in any particular case, is a citizen of, an inhabitant of, or somebody having some interest in, the country; and he has an interest not only in having his case promptly disposed of, but he has the general interest of all the people that the Judges shall not be corrupt. You say it is the same to the party injured; you may just as well, in my judgment, say that any man who is compelled to pay his debts by legal process is robbed. Is there no difference between accidental death, a death purely without any fault on the part of the person through whom it occurs, and deliberate murder, because the result is the same to the party injured? I do trust that, if this Code be adopted, the Bar of Pennsylvania will not give out to the world, and particularly to the young lawyers, that delay means that the Judge is corrupt, or is the same thing as corrupt. I think it would be unfortunate.

C. LA RUE MUNSON, Lycoming: I yield to no man in my allegiance to the American Bar Association. I have been a member of it for nearly thirty years, and have attended many of its meetings. At the same time, I will not yield what I consider a higher membership, and that is

a membership in the Pennsylvania Bar Association. Nor would I consent that the American Bar Association should lay down its laws for our observance and for our slavish following, irrespective of the fact that there may be other Codes better than that suggested by them. The American Bar Association, in its place and in the performance of its duties as promulgated by its constitution, has done a great work for the Bar of America, and for jurisprudence; and yet I cannot see that, when only twenty-four members of the Pennsylvania Bar attend its meetings—and that is a great number, as we are informed, and larger than that of any other State, except Michigan, where the meeting was held—I cannot see that the American Bar Association is the master of or represents the Pennsylvania Bar Association. The American Bar Association, in its wisdom, acting by its Committee, none of which except its Secretary, Mr. Lucien H. Alexander, was a member of this Association or of the Bar of Pennsylvania, has presented a Code or canon of legal ethics. So far as those canons go, they are to be admired; but in so far as they have omitted important matters, they are not in my judgment to be followed. And I say to you that no one, who will carefully and candidly and with honest mind, laying aside all prejudices of uniformity, which has become perhaps sometimes almost a fad, will hold that we must of necessity follow the National Association. Whoever will honestly compare this Code, which, as my pen did not write it, I am willing to say is excellently prepared, with the Canons of the American Bar Association, must give his honest and fair judgment to the Code prepared by your Committee.

Let me call your attention to but one subject absolutely omitted by the American Bar Association, and I will ask you one and all whether it should not of necessity be included in a Code of Ethics which applied both to Bench and Bar. I refer to the treatment of the duties of Judges on and off the Bench. I yield to no man in my respect and high

admiration for the Bench of Pennsylvania; and I think there is not a member of this Association who graces the Bench of Pennsylvania to whom any of these Canons of Ethics I refer to need apply, and yet you will agree with me that everyone of these canons should be included in the Code of Ethics, and not one of them is included in the American Bar Association's Canons. I refer to sections 90 to 101, and ask you whether these should not be included in a Canon of Ethics. And may I suggest in that line that I know of a single Court in Pennsylvania whose Judge is not a member of this Association, in a county from which not a single member is present to-day, where the Judge has sat for nine years upon the Bench, and I leave it to his own Bar whether there are not twenty cases that were argued nine years ago and not yet decided. Is that a subject not worthy of comment in a Code of Ethics? That is perhaps an ultra and extreme case. Yet I will venture the assertion that, by reason perhaps of the very press of work—and if there are other considerations, so much the worse—there has been many times in Pennsylvania what I call a denial of justice by reason of a delay of justice. And should we not therefore say that the Bench should be as diligent as the Bar? And yet the American Bar Association, in its wisdom, is silent on that subject; and we are asked to adopt that Code in its entirety. “94. He should never be or even appear to be inattentive.” May I say that is a subject to which the Judge, diligent in his duty, and attentive to his duty as a Judge, will give due consideration and attention; and should it not be included in a Code of Ethics applicable to him as well as to the lawyer? “95. He should be modest in his demeanor.” “96. He should be courteous to attorneys.” That is inapplicable as regards members of this Association, and refers, perhaps, to Judges in other countries. “98. He should not talk with lawyers about their pending cases, unless both sides are represented.” Does the side Bar exist in other States—not, of course, in Pennsylvania? Can it

be said that there is no side Bar in any State, nor any outside discussion of facts or law applicable to a case then pending? But whether there is or not, should it not be set forth in a Canon of Ethics which is a Code for the Bench as well as the Bar? I will read no more of these. The one to which my friend, Judge Ralston, has called attention in his comment is perhaps in the line of what I have suggested—in diligence on the Bench. But I submit to you, my brethren of the Bar of Pennsylvania, that this Code should apply as well to the Bench as to the Bar; and we are entitled to have the Code enlarged to cover this point.

We are told that these canons of the American Bar Association have been adopted by a number of States; but we have not been informed, because it is not true that the Bar Association of any other State has ever appointed a Committee who have given this subject any consideration. I think I speak advisedly when I say that there is no State that has adopted these canons of the American Bar Association whose Bar Association has itself appointed a Committee to prepare a Code; nor has such a Committee sat, as your Committee has sat, time and time again, and spent many and many a weary hour in this work. A member of our Committee has laid aside his own leisure, his own time, to perform a faithful labor of love for his profession, namely, the preparation of this Code, which I say is admirable, and sometimes has received sneers and laughter. I was not here last year, or I should have resented that with my voice. He has done a labor of love for which he is entitled to the honor of this Association. I say there is no other State that has given one tithe of the work and time which your Committee has given to this work; and yet, because, forsooth, Iowa and Kansas, or any other State has adopted, swallowed whole, the canons of the American Bar, therefore we must slavishly follow. Are we not independent? Are we a branch of the American Bar Association? Are we simply to accede to their demands and carry out their

orders? I tried on the floor of the American Bar Association in Seattle, two years ago, to delay action upon their report until they could see ours, and I was not supported but by one Pennsylvania member, because, forsooth, uniformity of laws was to have precedence over individual rights.

And last of all—I referred to that a year ago, and do so again to-day—I do say that terse, epigrammatic sentences are more forcible, are read easier and last longer in the human mind than long and involved canons, no matter who may have prepared them, or how distinguished the gentlemen whose pens may have written them. And I say to you that the law delivered to Moses on Mount Sinai is written in language that the veriest child could understand. You are not informed by the Ten Commandments that it is not kindly and courteous to take the life of a human being, that it is not generous and perhaps not of the most kindly disposition to rob a man of his property; but you are told, Thou shalt not kill, Thou shalt not steal; and no human language could make stronger impress upon the mind of the young, or upon the mind of anybody, than those epigrammatic sentences which have lived so long and will live for all time. So I say to you that in my opinion this Code of Ethics, epigrammatic, terse, as it is meant to be, will impress lessons of true ethics upon Bench and upon Bar, and will be a lasting honor and memorial to the Pennsylvania Bar Association.

WILLIAM DRAPER LEWIS, Philadelphia: I think, possibly, that I may throw some little light upon the present discussion if I were to report our experience at the University of Pennsylvania with the Code of Ethics adopted by the American Bar Association. Mr. Frank P. Prichard, of the Philadelphia Bar, has gone over and lectured on those canons. His verbal expression to me has been that they are a most satisfactory expression of the duties of an attorney, and that the practical working of that Code upon

young men, as seen from the point of view of the teacher, has been most admirable. Mr. Simpson says that uniformity is not desirable. I agree with him to this extent—uniformity is not desirable in low ideals of any character. But as a law school, which has students from all over the United States, it is absolutely essential that we teach the Code of Ethics of the American Bar Association. Now, if you adopt another and wholly distinct Code, we will of course teach that also. But I look with some fear upon the effect upon a young man of having one general subject treated by two bodies or from two different points of view. It is said, and I think perhaps it is true, that there are some things not in the Code of the American Bar Association which should be there; and I think, perhaps, you will produce the contrary effect upon young men coming to the Bar if you specially emphasize those things by treating them in additional canons, rather than by trying to give an entire block of canons once; and you should not refer to a different canon unless that of the American Bar Association expresses an ideal which you think is low, and so far as I have read the two canons I do not think such is the fact. But I am quite sure that if you wish to impress young men, coming to the Bar, with right ideals of professional ethics, you should have a Code, though a Code of itself of course is a very small thing towards that end; but you weaken the effect of the Code if you cover the same subject by two distinct Codes.

JOHN WEAVER, Philadelphia: It seems to me, after listening to the number of excellent speeches that have been made, that there are some splendid things in both of these Codes; and to my way of thinking, we should not turn down the work of our own Committee after all the time they have given to it. I therefore move, and it seems to me that this motion is in conformity with the resolution that was adopted at the suggestion of Judge Ewing—I move that this whole matter be referred back to the Committee, with

the instructions of the Association to reconcile the two Codes, and report another Code next year, combining them.

WILLIAM U. HENSEL, Lancaster: I move that that motion be laid on the table.

Duly seconded, and agreed to.

THOMAS A. FAHY, Philadelphia: It seems to me, after the discussion that we have heard here relating to both Codes, that all we require is a schoolmaster to reconcile the different sentences. As the criticisms all appear to be of that character, would it not be well for some of the gentlemen who are scholarly enough to frame sentences in plain language so that everyone can understand them, to frame a new Code embodying the best in each? I have not the least doubt in the world that such a Code adopted by such a Committee would receive the unanimous approval of this Association.

WALTER GEORGE SMITH, Philadelphia: When I rose before and attempted to get the eye of the Chairman, it was to oppose the motion of Mr. Weaver. I rise now to say that I do not think this Association ought to hesitate to decide between these very admirable pieces of work at this session. The Committee of the Pennsylvania Bar Association very loyally, in accordance with the wish of the Association, revised their work. They have presented a work well worthy of the Pennsylvania Bar Association. It is an open secret that it came from the hands of one of the most accomplished lawyers in the State and a man of whom we are justly proud. If it stood alone, I think there would be no question but that it would be adopted by the Association by an almost unanimous vote. This debate has come down to this proposition: Is the question of uniformity paramount? It is no reflection whatever that there may be an occasional verbal inaccuracy, or an occasional inelegancy of speech in the Code reported by the majority of the Committee. But many of us, and I trust a majority, will

support the American Bar Association's Code because of our belief that it represents the opinion of the great body of American lawyers, the whole profession in the United States; and we must not allow any provincial considerations to cause us to take action that may be misunderstood. The action of the Bar of Pennsylvania in supporting these uniform Canons of Legal Ethics will send its echo throughout the United States, and will be a powerful assistance to the cause that all have at heart. Years ago it was my privilege to be at the meeting of the American Bar Association when a very eminent member of the profession from Massachusetts read a paper on legal ethics which probably put the idea of drafting these canons in the mind of the Association. Things had been drifting and drifting; and there was, rightly or wrongly, an impression that the tone of ethics of the American lawyer, if not fallen, was falling; and that was the sentiment of the American Bar Association. Almost simultaneously the same idea came into the minds of certain members of the Pennsylvania Bar Association, and the work of our Committee and of the Committee of the American Bar Association went on at the same time. That is the reason we are confronted with this condition now. If we accept the American Bar Association's Canons it will not for a moment be interpreted, I am sure, either by the draftsman of the Pennsylvania Code or by any of his colleagues, as the slightest reflection either upon their own ideals or the way in which they have expressed them. It is possible, of course, for an acute mind to pick out here and there in a great body of work like this something that might be improved. It is possible, of course, when such a thing as a Code of professional ethics is being considered that you may find here and there a *casus omissus*. I confess I am surprised at the warmth that this simple question has evoked here, and I cannot but attribute it to the natural partisanship of those who, having undertaken a work, wish to carry it to the end; because I would not, for a moment, accuse



gentlemen of any artificiality of attitude in the views they are expressing either for or against the Code of the American Bar Association. Uniformity is not a fad. The support of these American Bar Association Canons will not indicate the slightest servility to the American Bar Association. There is no desire on the part of the American Bar Association, or any of its members, to assume any masterful position towards the Pennsylvania Bar Association or any other Bar Association. The American Bar Association rejoices because so many State Bar Associations have followed in the path in which it led. Do you remember that the genesis of the Pennsylvania Bar Association came from the American Bar Association? Do you remember that that dear friend, who was so many years the Secretary of our Pennsylvania Bar Association, coming back from the first meeting of the American Bar Association, with his enthusiasm warmed by what he had seen, set himself to work to form this Association? Why any friction, any conflict between the Pennsylvania Bar Association and the American Bar Association is impossible to consider for a moment. We are all of us members of the Pennsylvania Bar, and almost all members of the American Bar Association, and we are all American lawyers; and while we have local differences, and always will have local differences that will make it desirable, aye, necessary for our institutions to maintain the autonomy of the States, yet the circumstances of modern life have welded us into a homogeneous people, and we must lay our theories beside the theories of other American lawyers, and, having the same high ideals, express them in the same Code of Ethics.

S. J. STRAUSS, Luzerne: When I first came to attend this meeting my position was unfavorable to the report of our Committee, because I thought that, in some respects, I myself, if I were called upon, would be bound to criticise expressions found therein; but, after hearing the discussion here this morning, I have come to the conclusion to vote in

favor of that report, because I consider it important that this question of a legal Code shall not be made a closed question, that it shall not go out from this Association that the Code adopted by the American Bar Association is the *summum bonum* of legal ethics. There is nothing to be said about the form of a Code, whether epigrammatic or otherwise. I find upon comparison that the Code reported to this Association is somewhat longer than the Code reported to the American Bar Association; and the difference is chiefly in the fact that it is divided into more sections so far as it covers the same ground. But I do think that that which was said by Mr. Munson, in connection with the last section of our Code, relating to the Bench, covers an omission that ought to be called to the attention of the American Bar Association, and that it ought to be included in any Code of Legal Ethics. In other words, I do not think that a Code should be adopted as a text-book for students in a law college, or as a Code for beginners. I think that a Code should be broad enough to cover every duty which a lawyer may be called upon to perform, whether at the Bar or on the Bench; and because the Code of our Committee is broader and more embracing than the Code presented by the American Bar Association, and because it does give expression to some thoughts upon the subject of the duty of Judges, and for that reason alone I would be in favor of adopting this Code, so that we may have before the American profession two Codes upon the subject, to be compared and codified.

CYRUS G. DERR, Berks: I am the only member of the Committee that has not had a hearing. If you will allow me to, I would like to say a few words. I understand that ethics is a science, and I understand that legal ethics is a department of that science, and that, therefore, legal ethics is a science; and I propose to deal with it in that way.

When I look back, I see that all the sciences have been undergoing a process of development; and, in a general way, we may say, that the early stages of development were the

nebulous stages, the stages in which people wrote a great deal, and talked a great deal. They did not see very clearly; they did not understand; and there was a great confusion. But as the development of the science progressed, there emerged from this confusion axioms, maxims, and then we may say that the science became axiomatic. We know that was the case with astronomy, with mathematics generally; and we know that it is strikingly the case with the science of the law. The early Roman writers wrote, they wrestled, and there was great confusion, but out of that confusion emerged from time to time maxims which have been transmitted from generation to generation, and are now quoted in the Courts of justice.

So, Mr. President and gentlemen, it seems to me that, in dealing with this question, we should consider as to whether the Code reported by the Committee marks or does not mark a stage of development, not, as my friend and associate on the Committee said, a transcendent improvement, a great improvement, because the improvement in science is rarely great; the improvement is by slow degrees, small stages. And, therefore, the question is as to whether this Code is in the line of development, clearly distinguished from the other, not enormously better, but somewhat better, so that, if we should adopt this Code in preference to the other, we may say that we have advanced.

Now, Mr. Chairman, with all respect to the eminent gentlemen who formulated the Code of the American Bar Association, I cannot but think, when I read a paragraph or canon of two hundred, or three hundred, or four hundred words, that that canon marks the stage of science which I have called nebulous, confused. And the fact of the matter is that this Committee has drawn its ideas from other Codes, just as the American Bar Association did from Codes which stated all those things; and their Code has stated nearly all the things that this Code states, though in some respects this Code is more ample than any of them. So that the

question is now as to whether, in the development of this science of legal ethics, we are to emerge from the nebulous and get into the axiomatic stage.

As a matter of course, both these Codes are defective; no doubt about that. I am very much impressed with that. When I heard some of the criticisms made upon the Code this Committee has reported I became ashamed of myself, though I am free to say that I am not impressed with all of them. I think some of the diction that has been taken exception to is elegant, splendid phraseology. However, it must be said that when you formulate a Code in maxims, in brief sayings, you are laying the idea so bare that it is easy to criticise. And, therefore, it is rather a compliment to this report that it is so easily criticised, because, in order to criticise the other report, you would have to read long paragraphs, and it would be a very laborious performance. It is difficult to prove the weakness of a long paragraph; you lose yourself in reading it. For this reason I think that this Code marks a stage of progress, a step in advance, as my friend Mr. Walter George Smith has said, and therefore that we ought to adopt it.

Now, with regard to uniformity. If we propose a step in advance, it is not logical or reasonable to say to us, stay back for the sake of uniformity. We should take the step, and say to the other gentlemen, come forward for the sake of uniformity.

THOMAS J. MEAGHER, Philadelphia: I came here to-day with the notion that the Code of Ethics dealt purely with ethical considerations. I was reminded, however, of my error, when I read section 30, which says, "He, the lawyer, should live with such moderation as will enable him to pay expenses and keep his mind free." Then I looked at and found other expressions set forth as ethical propositions in the Code, some of which were pointed out by Judge Ralston, and found that it was unconscientious to speak to a Judge. Altogether it seems to me that, as one of the

gentlemen, Mr. Fahy, of Philadelphia, has said, we are very much in the state of being in a kindergarten, and need a schoolmaster. But, fun aside, does any man in this room need a Code of Ethics to know what is right, what is proper to do? Most of these questions are mere questions of etiquette; they are not questions of real right. You will never make a man good by legislation; you will never make lawyers right by debating Codes of Ethics. The thing to do is to reach the innate sensibilities of men. You talk about beginners. My experience at the Bar teaches me that ethical propositions are more important to the older man than to the young man. Let us get down to the fundamental consideration of this matter. Why talk about Codes of Ethics? It is our own conduct. Is the Bar of Pennsylvania so low that we need to formulate a system of ethics? Is the Bar so low that we need definite rules as to what we should do or not do under given circumstances? I have too much regard and too much faith in the lawyers of Pennsylvania. I know of no abuses of any serious nature on the part of our lawyers or Judges. The Committee on Grievances, of which Mr. Derr is a distinguished and honored member, says that there are no grievances sufficient to bring before this Association. If there are any, let us deal with them in specific instances. Why adopt a Code of Ethics, and say, We are so good; here is what we do. Do you know, perhaps later that Code of Ethics is going to come up to harass every one of us. Gentlemen, that is not an Irish bull. Do you know that somebody will say, I read sections 102, 103, and that says that is very bad. And another one will say, Well, Dean Lewis did that in his lecture, and, therefore, he ought to be disbarred; and there is a Committee on Ethics that will take the matter up and say that was very bad. But, to be serious, why put ourselves in this position? I for one do not want to be in the position of being in a kindergarten, and have what Mr. Fahy talked about, a schoolmaster. Is there any reason why we should do it? You are not going

to make a man one bit better by adopting a Code, you are going to lower the standard of Pennsylvania lawyers; and, therefore, I make a substitute motion, namely, to lay the whole subject on the table.

Duly seconded, but not agreed to. .

E. SPENCER MILLER, Philadelphia: I move to amend the pending motion by adding that the Committee shall recommend supplemental canons. It seems clear to me that the suggestion made by Dean Lewis is a good one. There is no incongruity about it, for a moment's consideration will show us that different States would naturally have somewhat different provisions. The State of Louisiana, as we all know, has a framework of law quite different from the rest of the States. They have the Civil Code, and it would be remarkable that they should not need some different provisions. I was very much impressed by what has been said about the necessity of having canons applying to Judges. I think there should be some, and I understand, although I have not carefully examined the Code passed by the American Bar Association, that it omits that. I think that my suggestion gives full consideration to many of the reasons that have been advanced in favor of our Committee's Code, and against the adoption of the American Bar Association's Code.

THE VICE PRESIDENT: Is that motion submitted as an amendment, that we recommend to the American Bar Association that they adopt further articles? The question before the Association is whether we shall adopt the American Bar Association's Canons of Ethics, and if the motion is to amend, the Chair rules that the amendment is not germane to the original motion, and therefore out of order.

E. SPENCER MILLER, Philadelphia: Will you let me explain my motion. The question before the body, as I understand it, is the acceptance of the report of the minority Committee to adopt the American Bar Association's Canons.

Now, the acceptance of that report will, *ipso facto*, refuse the report of the Committee. My motion is that we add to the acceptance of the report of the minority the direction to the majority of the Committee that they, not the American Bar Association at all, but that they submit a supplemental canon to be accepted at some future meeting, and that it, with the American Bar Association's Canons, be made the canon of this Association.

Motion seconded.

WILLIAM U. HENSEL, Lancaster: I move to lay that motion on the table.

Duly seconded, and agreed to.

WILLIAM U. HENSEL, Lancaster: I quite agree with the sentiment expressed by the gentleman from Philadelphia, which is practically an echo of the same sentiment expressed by the gentleman from Delaware last year, that neither Code nor canon can supply professional character where it is lacking, and that the absence of Code or canon cannot take away character where it exists. But we have decided, by a vote taken this morning, that it is expedient to adopt a Code or Canons of Ethics, and we cannot take a step backward unless we reconsider that motion. Moreover, the American Bar Association entered upon this work years ago, and so did we ourselves. It seems to me that the acrimony of discussion shown here to-day, and at Bedford a year ago, results largely from a competition between these two systems for literary merit; and it seems to me that is a secondary consideration. If a system of hypercritical examination be applied to either of those drafts, grievous literary blunders may no doubt be exposed; but, I repeat, that is a secondary consideration. The so-called irreverence with which the report of the Committee has been received in some quarters is not due to any disrespect to its authors or to their product. It is invited by themselves, by making comparison of the language of some of these canons with the majestic

sublimity of the Decalogue; and I respectfully submit that there are some of them that will not bear the test of that comparison. The only and real question before us is whether or not it is expedient for the Pennsylvania State Bar Association to fall into line with the other States. I believe not only that it is, but I believe that this Association has practically committed itself to that position. We had a Committee which was doing practically nothing, while the American Bar Association was not only doing its work, but invited this Association, as a body, and its members individually, to coöperate with it. Having failed to interfere with their work, or to supplement, or to contribute anything to it, now that it has finished its work, and that it has given to the profession and to the country a Code which has been generally accepted by the States that have acted upon it, not without consultation, as Mr. Munson has suggested, but after an examination of it in every case by a Committee of their Bar Association, it does seem to me that it would not only be discourteous but inconsistent for us to recede from the position which we have already taken. And I believe that when we can be courteous and can be consistent, without the sacrifice of principle, we should be so; and I am, therefore, heartily in favor of approving and adopting the Canons of Ethics adopted by the American Bar Association.

ALEX. SIMPSON, JR., Philadelphia: Mr. Chairman—  
(Calls for the question.)

I would like to make one statement before this question is put.

(Repeated calls for the question.)

If the Association do not want to hear, I am quite willing they shall be as discourteous as Mr. Hensel thought we ought to be courteous. The only thing I want to say is in answer both to that which Mr. Hensel said, and that which Mr. Edwin Z. Smith said, and that is that there is wholly a misunderstanding among those who say that the Code of



this Association is the same as the canons of the American Bar Association; because, if you had taken your pencil in your hand, and had checked off, as I did, the ones which Mr. Smith himself said were in our Code and not in the canons of the American Bar Association, you would have found that thirty-three out of the one hundred and one paragraphs in the report of this Committee are not at all in the American Bar Association's Code, nearly one-third; and yet they call that the same thing. You would have found, also, if you had followed Mr. Smith, and taken the numbers that he referred to in the American Bar Association's Code, which he said were different from that which appears in our Committee's report, that there were seven of them which were only different in their form of expression in the two reports, but not one entirely lacking in our Code. There is nothing in the American Bar Association's Canons which is not expressed in some form or other in the report of this Committee. I thought this Association ought to have these facts before it, and not be misled by the repeated statements that the ethical statements in the one were exactly the same as the ethical statements in the other.

**THE VICE PRESIDENT:** The question before the Association is the adoption of the report of the Minority Committee on Legal Ethics, which recommends the Canons of Ethics of the American Bar Association.

The question being as stated by the Chair, it was agreed to.

On motion, adjourned.

## SECOND DAY, EVENING SESSION

WEDNESDAY, *June 29, 1910.*

The Association was called to order at 8 o'clock p. m., President ENDLICH in the Chair.

**THE PRESIDENT:** In every community, even one composed of members of a talking profession, there are a few

who, by common consent, are known to say what they have to say better than others could possibly say it. Amongst us the distinguished gentleman who will address us to-night has long been recognized as belonging to that choice group. I take great pleasure in presenting to you Hampton L. Carson, Esq., who will entertain and instruct us upon a very interesting subject.

(For Address by Hampton L. Carson, upon "The Genesis of Blackstone's Commentaries and their Place in Legal Literature, Illustrated by an Exhibition of Legal Classics, Portraits, Autograph Letters and Original Documents, Including Blackstone's Commission as a Judge, his Appointment as King's Counsel, Notes from the Commentaries in his Own Handwriting: the Original First Edition, English; the First American Edition, the First Illustrated Edition, etc., etc.," see Appendix.)

### THIRD DAY, MORNING SESSION

THURSDAY, *June 30, 1910.*

The Association reconvened at 10 o'clock a. m., President ENDLICH in the Chair.

THE PRESIDENT: Will Vice-President Clement please take the Chair?

(Upon Vice-President CHARLES M. CLEMENT assuming the Chair the proceedings continued as follows:)

THE VICE PRESIDENT: The first order of business is the report of the Delegates to the Comparative Law Bureau.

WILLIAM W. SMITHERS, *Chairman*, Philadelphia: As Chairman of that delegation, I desire to present the following report:

#### REPORT OF DELEGATES TO COMPARATIVE LAW BUREAU

The delegates of the Pennsylvania Bar Association to the Annual Meeting of the Comparative Law Bureau of the

American Bar Association, held in the County Building, Detroit, Michigan, on Monday, August 23, 1909, at 3 o'clock p. m., report as follows:

A large number of delegates attended on the date mentioned, representing various Bar Associations, universities, law schools and other bodies having membership in the bureau. The Annual Address delivered by the Director of the Bureau, Hon. Simeon E. Baldwin, Chief Justice of Connecticut, was a most interesting review of the progress made by the science of comparative law and strongly indicative of the growing attention that the subject is receiving in this country.

At the close of the Annual Address the reports of the Board of Managers and the Treasurer were received and passed upon, and the officers for the ensuing year elected.

After an instructive discussion a resolution was passed favoring the proposed establishment of a National Legislative Reference Bureau under the plan formulated by the National Association of State Libraries and the American Association of Law Librarians in 1909 as tending to encourage and assist in the study of Comparative Law.

One of the most important matters of the session was the passage of the following preamble and resolution:

WHEREAS, Complaints and objections have arisen from Courts, lawyers and others in regard to the translations of the laws of our Insular Possessions, as published by the War Department, on the ground of inaccuracy and unreliability, and as having been performed by persons unskilled in the law; therefore,

*Be it Resolved*, That the Secretary of War be given information of said objections, inaccuracies and imperfections, with an expression of the hope that he will take early steps to cause a revision of such translations to be made by some one or more persons who shall be proficiently conversant with Spanish and English, and also skilled in the civil law and the English common law.

The Committee appointed pursuant to the resolution consists of Robert J. Kerr, Esq., of Chicago, Ill., Chairman; Prof. E. G. Lorenzen, of Washington, D. C., and Joseph Wheless, Esq., of St. Louis, Mo., well known experts upon the Civil Law.

Your delegates do not deem it necessary to present a report more in detail because the entire proceedings of the Bureau, together with the text of the Annual Address, appear in the Report of the American Bar Association for 1909, and an abstract of the proceedings having also been published in the *Legal Intelligencer* of Philadelphia.

Your delegates feel, however, that it should be stated that the meeting indicated clearly that the pioneer effort of the Pennsylvania Bar Association to encourage the study of comparative law has now become nation wide in its influence, and that the beneficial fruits of the movement are steadily each year being manifested throughout the Bench and Bar of the country.

The discussions also plainly showed a general belief that only through pursuit of comparative study of the laws of this and foreign countries can there be ultimately evolved the true and distinct *corpus juris Americani*.

Respectfully submitted,

WM. W. SMITHERS,  
WILLIAM D. NEILSON,  
FRANCIS FISHER KANE.

May 23, 1910.

THE VICE PRESIDENT: What action will you take on this report?

JOHN B. COLAHAN, Philadelphia: I move the report be accepted and filed.

THE VICE PRESIDENT: Mr. H. Frank Eshleman not being in the room at this moment, if there be no objection,

the Association will proceed to the next item of Unfinished Business. The Chair hearing no objection, recognizes Honorable Harold M. McClure, Chairman of the Special Committee on Constitution of Courts in Pennsylvania.

HAROLD M. MCCLURE, *Chairman*, Union: Three years ago, the following resolution was presented to the Association:

*Resolved*, 1. That the Superior Court be abolished.

2. That the Judges of the Supreme Court be increased to fourteen by the transfer of the Superior Court Judges thereto.

3. That the Judges sit in two divisions of seven Judges each, at the seat of government.

4. That where there is a dissenting opinion, the cause shall be put down for argument before the full Bench or Court *in banc*.

5. That writs of error issue to the inferior Courts returnable at regular stated return days, without regard to counties, and the causes be put down for argument within three months thereafter.

A Committee was appointed, of which I had the honor to be Chairman, and the next year we presented a report recommending the adoption of the resolution, and suggesting an amendment to the Constitution to carry it into effect, with a schedule for the amendment. This was published at so late a date that the Association referred the matter back to us, in order that we might give the reasons for the report of the Committee. This was done at the meeting held at Bedford Springs last year, and the report was again referred back to the Committee, with instructions to obtain the judgment of the various Bar Associations, upon the following motion by Mr. Simpson:

"That the Committee consult with the local Bar Associations of the State, and ask their judgment upon the questions presented in the arguments of the members on the motion to adopt the report of your Committee.

*First*.—Whether or not it is wise to consolidate the Supreme and Superior Courts, and have the Court sit in two divisions; or

*Second*.—To consolidate it as one Court; or

*Third*.—To retain the present constitution of the Courts."

Pursuant to those instructions, the Chairman of this Committee took it upon himself to direct a circular letter to each of the Bar Associations of the State, some sixty-four of them, requesting them to give their views on these questions. We received replies from fifteen or more of these. Allegheny, Lancaster, Philadelphia and Washington report in favor of retaining the present Constitution, the Bradford County Association in favor of consolidating the Courts. Clearfield, Erie, Forest, Lebanon and Union favor consolidation of the Courts, but would have the Court sit in two divisions. The Committees appointed by the Delaware, Warren and Cameron County Associations are unable to agree. The other associations, if they have taken up the question, have made no report to the Committee. For the purpose of bringing this matter before the Association, I move the adoption of the report presented two years ago.

ALEX. SIMPSON, JR., Philadelphia: The purpose of referring back the report last year was that there might be obtained a consensus of opinion from the various associations in the counties throughout the State. According to the report of the Committee, for some reason or other there has not been any very concerted action throughout the State. Mr. Steele told me—I do not know whether he is in the room at present—that the Northampton County Law Association had voted against the resolutions suggested by this Committee. Whether there are any others that have acted besides those that the Committee refer to in their report, I do not know. It certainly seems inadequate, if there is any weight whatever to be given to the action of the county associations, that we should pass upon the matter, when, according to the report, fifty of the local Bar Associations have not yet acted, or not yet reported. The communications from the Committee to those associations were sent out comparatively late, at least so far as the Law Association of Philadelphia

was concerned, and it may be there was not time to act upon the question. I would, therefore, move that the further consideration of this question be postponed until next year, with the request that the Committee urge all the associations throughout the State to make answer, so that we may then have before us exactly what is the desire of the various county associations throughout the State.

Duly seconded, and agreed to.

THE VICE PRESIDENT: The Chair is pleased to note that Mr. H. Frank Eshleman has entered the room. Yesterday we committed the care of even our morals to Federal supervision; it will be an undoubted pleasure to contemplate the life and character of one who has given so much to Pennsylvania law and Pennsylvania lawyers of the independence of character and standing that characterized Pennsylvania lawyers until we became so seized with the uniform desire to be uniform. Gentlemen, I present H. Frank Eshleman, Esq., of the Lancaster Bar, who will address you on *The Constructive Genius of David Lloyd in Early Colonial Pennsylvania Legislation and Jurisprudence—1686-1731*.

(For address by H. Frank Eshleman on "The Constructive Genius of David Lloyd in Early Colonial Legislation and jurisprudence," see Appendix.)

THE VICE PRESIDENT: The next item, and the last item of Unfinished Business, will in all probability invoke considerable debate. The Chair takes this occasion to state that a member having spoken once, shall, under our By-Laws, not be recognized again until all others who desire to speak shall have been heard. I desire to announce that the Chair will strictly enforce that rule. The report of the Special Committee on Contingent Fees is now before the Association.

JOHN B. COLAHAN, JR., Philadelphia: Mr. Chairman and members of the Bar Association: In the absence

of Judge Beitler, who has been unavoidably detained, I have been selected to present to this body the result of our labors. A grave evil exists, a very great evil. It is a stench in the nostrils of the people, and it has been spread in the public prints to the shame of our profession. At a meeting held two years ago, prompted doubtless by this sentiment, a resolution was presented, which is as follows:

*"Resolved, That the question of contingent fees be referred to a special committee of three to be appointed by the Chair, to report at the next annual meeting what steps, if any, should be taken to correct abuses, if they find any exist, and for the better regulation of such contracts."*

A Committee of three was appointed. That Committee met frequently, and worked separately, examined the law with relation to the subject, examined the various Acts of Assembly that had been passed in the different States, gave as careful consideration as they could to the feeling of the different Bars in different parts of the country, met and interchanged ideas; and they were impressed with the seriousness and delicacy of the subject committed to them. They were impressed with the evils existing; they were impressed with the possible consequences of any legislation to those who make such contracts, and they were impressed by the fact that the law recognized such contracts, and that to a certain extent necessity justifies them. Having finished their labors, and being ready to present their report to this body, it occurred to them that maybe something more ought to be done. It so happened that the Committee was composed of three Philadelphia lawyers, and they felt that they might be too much influenced by their environment. Therefore, considering the grave importance of the question, they asked this body to increase the number of the Committee, so that all sections of the State might be represented. This body at once accorded that request, and gentlemen from all parts of the State to the extent of the request were added to the Committee. From that time to



this, so far as was possible, and so far as their business would permit them, and in many instances when their business suffered, they have gone over the work of the Committee, had many suggestions, and now have formulated an Act of Assembly which they present for the consideration of this body. They have tried to keep their minds open, free to suggestion, ready to consider all phases of the Act; and so open have their minds been that yesterday afternoon the Committee was reconvened and considered suggestions that had come to them at this meeting, and amended their report. As the subject is so very important, I do not think it would be amiss if I read the new form of the Act. It is as follows:

#### AN ACT

TO REGULATE CONTRACTS BETWEEN ATTORNEYS-AT-LAW AND PARTIES CLAIMING A RIGHT TO RECOVER DAMAGES IN ACTIONS OF TRESPASS, PROTECTING ATTORNEYS COMPLYING WITH THE ACT AGAINST SETTLEMENT MADE WITH THE CLIENT WITHOUT NOTICE, GIVING COURTS OF COMMON PLEAS THE RIGHT TO REDUCE THE FEES CONTRACTED TO BE PAID OR TO REFUSE ANY COMPENSATION, AND PROVIDING FOR DISBARMENT IN CERTAIN CASES.

Now let me say that, after careful consideration of the whole subject, the Committee were unanimously of the opinion that the only practical thing that could be done was a regulation of the contracts for contingent fees, and their whole purpose has been to endeavor to accomplish that end.

SECTION 1. Be it enacted, etc., That whenever a contract shall be made between an attorney-at law and anyone having or claiming to have a right to recover damages in an action of trespass, whereby the compensation to be paid to the attorney depends upon recovery or whereby it is agreed that the attorney shall receive a specified proportion of the amount recovered, such contract shall be in writing, executed in triplicate, and one copy shall be given to the client. If suit is brought on the claim, the attorney shall file of record one copy of said contract and it shall be the duty of the Court if the action proceeds to trial, after the jury has retired, to ascertain if such a contract has been made.

Let me say incidentally, the Committee, in preparing this section, had in mind many things that will doubtless be said with regard to this Act, and probably the most striking is the reluctance, the very natural reluctance of any man to disclose his business, in other words, to publish the contract with his client. The Committee thought that if a man was honest, and made a contract, he would have no reluctance in disclosing its contents.

The other sections are as follows:

**SECTION 2.** If before suit is brought notice of the contract is given to the defendant, or if after suit is brought the contract has been filed, as above provided, and thereafter the defendant or defendants or any of them settle directly with the plaintiff or plaintiffs, without the consent of the attorney with whom said contract was made, such settlement shall not be a bar to his recovery in the said suit of his fee, costs, and expenses, which shall be taxed by the Court and judgment entered therefor in his favor forthwith.

**SECTION 3.** If in any such case where such a contract has been made and a verdict obtained, or a settlement effected, either before or after suit brought with or without judgment or execution, it shall appear to the Court that the fee collected or retained or claimed under the said contract is unreasonable, the Court in which the suit is pending, or if no suit has been brought, any Court of Common Pleas of which the attorney is an officer, shall summarily make inquiry into the facts and settle and fix the fee proper to be paid, notwithstanding said contract.

**SECTION 4.** If, in any case, it shall appear to the Court that the attorney has contracted to represent the client for a contingent fee and has not complied with the provisions of this Act, requiring the execution, delivery and filing of such contract, or if it shall appear that the attorney procured the case by improper solicitation, or by paying or promising to pay to some one other than the plaintiff any part of the recovery, or any compensation for securing the employment of said attorney, or if it shall appear that any person testifying in the case has been promised by the attorney a stipulated proportion of the recovery, the Court shall enter an order that the attorney shall forfeit all right to any compensation notwithstanding said contract, and if the same has been collected that it shall be forthwith paid over to the plaintiff.

SECTION 5. The Court may enforce the provisions of this Act by disbarment proceedings or other suitable action, and either party may appeal from the decision of the Court to the Supreme or Superior Courts.

Now, gentlemen, I have put the whole subject before you. Permit me to say, before the debate begins, that it seems to me from a long experience in attending the meetings of this Association, that we are growing a little prone to become acrimonious. We are a body of gentlemen of the Bar; we are striving to help our profession; we may differ in views, honestly differ in views, but at least we can have that respect and regard for one another which will teach us implicitly that whatever argument a man may urge is urged in all honesty and sincerity.

ALEX. SIMPSON, JR., Philadelphia: I desire to ask Mr. Colahan and the other members of the Committee whether they have considered the question of the constitutionality of the provision of Section 2—allowing the Court to tax the fee to be paid by the defendant to the plaintiff's counsel in case of a settlement with the client without the consent of counsel.

JOHN B. COLAHAN, JR., Philadelphia: We have considered that question. I must confess that I cannot reply affirmatively, without some mental reservation, that it is constitutional. That may be a rather evasive way of answering. Personally, I think it is.

HENRY BUDD, Philadelphia: I am opposed to the passage of this Act, because it undertakes to regulate that which I think should be abolished. Unfortunately, by a very narrow decision some years ago when the question came up directly, the Supreme Court, by a four to three decision, upheld a contract for contingent fees. But I do not think we should go further, and put the stamp of our approbation upon the practice by regulating it. It seems to me that the cry that it is necessary to have contracts for

contingent fees recognized, because in some cases people otherwise could not obtain counsel, and therefore could not obtain justice, is one that entirely ignores the confidential relation which the law assumes exists, and which, in fact, should exist between counsel and client. If a man so poor that he cannot maintain a just claim comes to a lawyer, there is nothing to prevent the lawyer taking up that case, and letting the client know distinctly that the matter of fee will have to remain open, that he will make no bargain with him for either a proportion of the recovery, in case of recovery, or will take no fee in case of no recovery, but that the matter must be settled by people trusting each other. The moment you establish in the community the feeling that a man cannot go to his lawyer with perfect confidence that he will be treated fairly and properly, and without finding it necessary, by a contract, to bind the man to whom he has opened his heart, then you have broken down one of the very bases of society. There must be this confidence, and if this confidence is abused in any case, no punishment is too great for it. But I do not think we should put client and counsel at arm's length, if the matter of fees be left open, or in case recovery is to affect the fee, make a contract as to the amount of it, or the proportion of the amount recovered.

But, gentlemen, if we are going to take this step, which I look on as a step in the direction of harm, and the trend is that way, let us be consistent; and if we are going to regulate the question of contingent fees, let us regulate the whole. And therefore it is that I shall make a motion to amend this proposed Act—although I am opposed to the Act entirely in principle—so that there be as little mischief done as possible—I shall make a motion that the Act apply to all classes of cases. Why should the regulation of contingent fees be confined to actions in trespass? Is it any worse or any better to make a contract for a contingent fee in a case where a man has had his arm broken, or in an

assault and battery case, than it is where a contract right is concerned, where for instance, an action is brought in ejectment to recover a farm? Is it any better or any worse to say that a man shall have fifty per cent. of a pecuniary recovery than that he shall have half the land, if recovered? Is there any difference? Is it consistent? As suggested this morning by Judge McClure in conversation, is there any difference between an action, bringing into question the immorality of a contract or the usefulness or propriety of a contract, or ejectment to recover land, or an action *quare clausum fregit* for trespass on the same land? Why should this be confined to an action of trespass? If it needs regulation in one case, why not in the other? An impecunious man may have an action of contract as well as an action of trespass. A man may have made a contract with some individual who will not pay him, and may have nothing whatever to pay counsel with, as well as where he is injured by somebody who meets him on the street and runs him down. Where is the distinction? Let us be consistent. Do not send to the Legislature an Act which discriminates between the same act performed in a trespass and performed under a contract. Why should it be? Therefore, Mr. Chairman, while I hope the whole Act will be disapproved by this Association, for I look on approval of it as unfortunate, I move to strike out in the title and First Section, and wherever else it occurs the words "in actions of trespass," so as to make the Act apply to every kind of action that may be brought.

JOHN B. COLAHAN, JR., *Chairman*, Philadelphia: On behalf of the Committee, I think we are entirely willing to accept Mr. Budd's amendment, not in the form perhaps in which it is made, but so as to make the Act apply to all forms of action.

WILLIAM J. CONLEN, Philadelphia: I think, too, before we enter upon the consideration of this Act and dis-

cuss whether this thing needs regulation, we should not take the word of the Committee as to its constitutionality. We ought to have an Act which will regulate the subject that could positively stand the test of constitutionality. When Mr. Simpson raises the question whether Section 2 can by any possibility be said to be unconstitutional, the question is not answered by a mere statement that the Committee believes that it is constitutional.

If the gentlemen will simply look at Section 2 of the Act, which provides that if, before suit brought, or after suit is brought, there shall be a settlement without the consent of the attorney that recovery may be had in his client's suit, not that the attorney may bring suit, and in that suit recover his fee, costs and expenses, but it says that "such settlement shall not be a bar to his recovery in the said suit of his fee, costs and expenses." Now, if no suit on the client's behalf has been brought, I ask the Committee how his fees, costs and expenses can be recovered in that suit; and if the suit has been brought, a suit in trespass in the name of John Smith to recover damages for personal injuries, may I ask, under our present system of law, how an attorney can come in and suggest to the Court that a settlement has been made by John Smith, and thereupon the Court enter judgment in favor of the attorney (for attorney's fees, costs and expenses) against the defendant in the suit brought by John Smith? I think that question is pertinent to the bill; and I think, before we consider the question of fees at all, we should consider the bill, and if the bill bears, as it seems to bear, upon its face a lamentable deficiency, then I move you that the bill be laid upon the table.

Motion seconded, with requests for withdrawal thereof.

WILLIAM J. CONLEN, Philadelphia: I withdraw the motion to lay on the table. I would like to hear Mr. Simpson on that thought, and then I should like to hear Mr. Colahan, without acrimony, of course——

(JOHN B. COLAHAN, JR., Philadelphia: There could not be any acrimony from you——)

WILLIAM J. CONLEN, Philadelphia: ——tell this body that this section is constitutional, and then tell us why.

ALEX. SIMPSON, JR., Philadelphia: I move to amend Section 2 by striking out the words in the last two lines of this section, "which shall be taxed by the Court and judgment entered therefor in his favor forthwith," and insert, "to be determined by a trial by jury in the then pending case, or in an action of *assumpsit*, if no suit be pending, as in other cases." In referring to this, I am going to do so with exceeding briefness, if anyone can imagine that possible to me. I can very well understand how it is the Court may drastically proceed against an attorney, who is its officer, and by either actual or threatened disbarment force him to disgorge that which he is not conscientiously entitled to have; but I cannot understand how by any possibility there can be given to the Court the power to decide either that the defendant in the cause knew of the contract between the plaintiff and his counsel or the point as to whether or not the defendant in the cause settled with the client plaintiff without consulting the counsel, while there remains in the Constitution of Pennsylvania the right of trial by jury as theretofore. And it is to meet that difficulty that this suggested amendment is proposed.

E. SPENCER MILLER, Philadelphia: I move, by way of amendment to that amendment, that Section 2 be entirely stricken out, because there is no doubt of the unconstitutionality of the second section. The preceding clause applies not merely to fees of which recovery is proper, but applies to all fees which are conditional upon recovery. The result is that by virtue of this second section, one class of attorney's fees can be recoverable after a settlement has been made by the defendant, while other classes, those which are not contingent on recovery, cannot be collected. One attor-

ney in one case is entitled to payment of a fee not based upon a recovery, and in another case he is entitled to get a fee only in case of recovery. Now this statute gives an approval to one form of contract right, and not to another form of contract right; and therefore it is in violation of that provision of the Constitution which forbids special or local legislation. For example, a man brings an action against a railroad company, counsel is entitled to recover proper compensation, whatever that may be. He brings another action against the railroad company, and his contract with his client with regard to that action is to get no fee unless he collects. Now he is protected against a settlement behind his back in one case, and not in the other. And clearly that is a case of special legislation, because it established a different protection for one contract right from that which is established with regard to the other.

ALEX. SIMPSON, JR., Philadelphia: I withdraw my amendment, in order that Mr. Miller's amendment may be put, but will renew it if his is voted down.

E. SPENCER MILLER, Philadelphia: I therefore move to strike out Section 2 entirely.

Duly seconded.

WILLIAM H. SUTTON, Philadelphia: If we are to pass an Act on contingent fees, it seems to me that Section 2 is one of the most important parts of it. The practice of going behind the attorney to settle with the defendant is one that every lawyer should be against. I think possibly by striking out a part of the last two lines, we may reach the objection which has been made.

THE VICE PRESIDENT: The Chair will have to insist on the gentleman's confining his remarks on the motion now before the house, which is to strike out the whole of Section 2.

WILLIAM H. SUTTON, Philadelphia: One of the reasons why I shall oppose the motion to strike out the whole



of this section is that it is not necessary, that by striking out a part we may accomplish the same result, and that is the words, "which shall be taxed by the Court and judgment entered in his favor forthwith." By striking those out we have met the constitutional objection. If we are going to have an Act regulating fees, let us protect the attorney as well as the client.

S. J. STRAUSS, Luzerne: As a member of this Committee, I want to say a few words in connection with this general subject, and the special motion to strike out Section 2. With reference to the general subject, as presented by the first speaker, not Mr. Colahan, I would say that wherever an attorney sees fit to represent a client without a contract, he stands upon the general basis of the law of contract, as in any other case where he has accepted a retainer, but has made no specific contract for his fees. When the case is terminated, he may charge the fee that he thinks is right, subject to the client's right of appeal to the Court, and to have any portion of the fee that is thus retained directed to be returned. It is only in these cases in which attorneys for their own protection find it necessary to make these contracts that this law is intended to be applied. Therefore the Committee, at the very outset, took it upon itself to frame a law by which the attorney shall be protected, and that entire protection lies in Section 2. So far as I am concerned, as a member of the Committee, I regard it as so important that the attorney shall be protected as well as the client, that I believe the bill would be essentially emasculated by striking out Section 2. I want to say also, as I am not going to speak again on this subject, just one other thing. With reference to the constitutionality of this bill, it is merely necessary to call attention to the fact that a contract of this character, filed in the cause, or notified before suit to the proposed defendant, is practically an assignment to the extent of the contract of the right of action, and it, therefore, gives to the

assignee a right in the cause of action, which cannot be destroyed by a settlement behind his back. And it is constitutional, therefore, to protect the equitable right of an attorney who holds such a contract and has given notice of it. In my judgment the Act is beyond any question constitutional, so far as that is concerned.

With reference to the suggestion that we are making fish of one and fowl of the other by protecting contingent fees and not protecting other fees, and that, therefore, this is special legislation, it is hardly necessary to say anything about it. It seems so clear that all contracts are protected to the extent to which a Court can protect them by ordering a fund into Court, upon which counsel has a lien when recovery is had; and when a suit is settled behind the back of an attorney who has not taken that precaution to protect himself, that attorney has acted upon the general principle on which we act in most cases in which we accept the business of a client and take our chances on his honesty; and that, therefore, requires no protection. In other words, this Act is intended to be limited to contingent fees, and it is intended to protect the client, but also intended to protect the lawyer; and unless you pass the Act in that broad-minded way, making it look in both directions, you will fail to do what I think is the general purpose of the Act.

E. SPENCER MILLER, Philadelphia: It would be very unbecoming of this Association to recommend to the Legislature a statute which would subsequently be declared unconstitutional. I submit that the question here is making the Legislature privilege a contingent fee, when fees not contingent are not privileged; and it is impossible to say that this Act deals only with fees that are dependent on collection; for this reason, that the Act especially applies to two classes of fees. In the first section it says "Wherever the compensation to be paid to the attorney depends upon recovery;" that is one class; that has no lien on the recovery. The

mere fact that the fee is not due, unless there is recovery, does not imply a lien on the recovery. And the second class is "Or whereby it is agreed that the attorney shall receive a specified proportion of the amount recovered." Now, there, I admit, there is an assignment of the claim for the protection of the fee, but it is not clearly so in the first case, because there the fee depends upon recovery being had.

FRANCIS FISHER KANE, Philadelphia: Accompanying this report is a statement recommending certain action by the Legislature. It was thought that the subject to which that recommendation relates was not so germane to the subject referred to your Committee as would justify our making it part of our report. I speak of that now because I do not, with the permission of this Association, wish to be cut off from the little I want to say later when that comes up; but I do want to say something now with regard to this section. Judge Beitler is in Philadelphia, was unable to come down here. I had him on the long-distance a short time ago. Mr. Weil, of Pittsburgh, is in Europe. Mr. Rilling, of Erie, I think is in this room, and Mr. Appel, of Lancaster, is also in this room, and if I am wrong the two latter gentlemen will correct. I think that their view is that of Mr. Strauss, and I think I am able to quote Mr. Colahan—he will correct me if I am wrong—that if this section is to be stricken from the Act, the Act will be so mutilated that we as a Committee will not endorse it. I therefore beg every gentleman in this room who is inclined to the view expressed by Mr. Miller, that it is unconstitutional, not to vote for the amendment proposed by him to strike it out, but to vote for a recommitting of the subject to our Committee or to another Committee, because if you strike it out, you make the Act essentially unfair.

ALEX. SIMPSON, JR., Philadelphia: I move that this whole matter be referred back to the Committee, with directions to report at the next meeting of the Association, and,

if possible, to so report that the Act shall be a general one, relating to all fees between attorneys and clients.

Duly seconded.

THOMAS LEAMING, Philadelphia: Mr. Chairman—

THE VICE PRESIDENT: This motion is not debatable.

ALEX. SIMPSON, JR., Philadelphia: If the gentlemen wish to debate the question further, I will withdraw my motion.

THOMAS LEAMING, Philadelphia: I hope that this second section will not be stricken from this proposed bill. It may be possibly subject to some criticism. I have great regard for the suggestions of the several gentlemen as to its constitutionality. But we are not passing the bill; that is to be done by the Legislature; we are merely expressing our views, in outline, to a certain extent, upon a subject which is later to be considered by the Legislature, by the Governor, and by his constitutionally legal adviser. The reason I hope it will not be stricken from the bill is that the right which it seeks to preserve, it seems to me, is an essential right to preserve to the profession. If we are going to attempt to deal with the subject of contingent fees by legislation, let us at least in that bill regard the rights of the lawyer who represents the plaintiff, and who has expended his time and brains and energy in an endeavor to recover, against the nefarious act of his client, the plaintiff, acting in conjunction with the contemptible act of the defendant, in effecting a settlement behind the back of the lawyer representing the plaintiff. Without such a provision, it seems to me that you are striking at the compensation of the profession, just compensation, for it is professional services. In many states the laws provide for a lien in favor of the plaintiff's counsel upon the judgment, so that defendants and plaintiffs who choose to ignore their counsel and settle directly are cut off in advance; they cannot effect any settlement which affects the lien.

I agree with Mr. Budd, one of the first speakers, that possibly such legislation indicates a certain degree of commercialism of the profession, and perhaps a tone which we do not, any of us, think as happy a condition of affairs as the time when a lawyer, as is still the common law of England, could not recover anything whatever, when his fee was a pure honorarium. But there is nothing in this Act which prevents any of us from maintaining the same relation with our clients that we do to-day. And I have no doubt that a very large proportion of the gentlemen in this room have never made a contract with a client, and never will, whether this Act is passed or not. But we should also remember that there is a great deal of litigation brought by the extremely poor and ignorant, who entertain none of the respect for the relation of client and lawyer which we do, who are quite as willing to avail themselves of any opportunity to swindle their lawyer, as they would to swindle the other side; and I, therefore, think that we ought to recognize conditions as they are; recognize that conditions have changed, that the relation of lawyer and client in many cases is not as intimate and confidential, as it once was. And therefore—and I may say I have my doubts about the wisdom of the whole proposition—if we are going to deal with the question at all, I do think we should protect the rights of the lawyer as well as the client in dealing with what is considered to be the evil of extortionate contingent fees, and I hope this section will not be stricken from the Act.

The question being to strike out Section 2 of the proposed Act entirely, it was not agreed to.

ALEX. SIMPSON, JR., Philadelphia: I now renew my motion to amend Section 2 by striking out the words, in the last two lines of the section, "which shall be taxed by the Court and judgment entered therefor in his favor forthwith," and inserting, "to be determined by a trial by jury in the then pending case, or in an action of *assumpsit*, if no suit be pending, as in other cases."

JOHN B. COLAHAN, JR., *Chairman*, Philadelphia: The Committee will accept that amendment.

D. WEBSTER DOUGHERTY, Philadelphia: For my part, I want to enter a very earnest protest against the adoption of the report of this Committee. It seems to me that any gentleman who votes recommending the passage of such an act to the Legislature, but characterizes the profession of which he is a member as a lot of rascals. There are no conditions in the City of Philadelphia, or elsewhere in this State that I know of, which warrant any such drastic and insulting legislation with respect to members of the Bar. I have been at the Bar for forty years, and I would like to say that during all that time I have known of but three cases where Courts have been required to pass upon a member of the Bar regarding his conduct towards his client. Mr. Leaming has well said, this is a commercial age, and I suppose in this country the lawyer has as much right to deal with his client, provided no fraud or impropriety is used, as he has to deal with anybody else. I think it is improper from an ethical standpoint, probably, for lawyers to do what I understand they do do—to solicit business; but I think that is a question of taste. I do not think there is anything improper or illegal about it, and I do not think that the Legislature can make that illegal which is inherently legal. I think it is purely a legal question.

Be that as it may, I do not think this Association ought to pass a bill which, as far as my opinion goes, if I did not know the high character of the gentlemen of this Committee, I would have supposed was drafted by some casualty lawyer for the purpose of discouraging litigation against corporations. I think the whole object of the bill is shown by this very fact, that the bill omits from its provisions all contingent fees, as Mr. Budd has well said, in cases where the lawyer brings suit on contract, or any form of action other than trespass. If we are a profession of rascals, we are just as likely to take advantage of our clients where we

represent a poor woman in the Orphans' Court seeking a proper share of her husband's estate, or in land damage cases, or in numerous cases, where we cannot take contingent fees, as in representing our clients in an action of trespass. The very idea, that we should assume that we are all dishonest!

What is the measure which is proposed? It is proposed that, after a lawyer has dealt in good faith with his client, his client presumably seeking him and not he his client, has arranged in advance the terms upon which he is to take the case; he is then required to undergo the humiliation of filing a copy of the contract in the record of the Court, where it is open to everybody; and after he has succeeded in obtaining a judgment, and that judgment has been affirmed by the Supreme Court, he is then to undergo the humiliation of having a Judge supervise his arrangement with his client. Now, how can a Judge do that properly? You know the compensation which a lawyer is entitled to, which he generally receives, is not measured by the same general rule that a baker measures that which he is to get for his bread. The work of a lawyer is so complex, it is impossible for a Judge to pass with any justice on the lawyer's fees; and cannot do it at all unless in any case where the amount recovered is so much, so much is to be allowed, and where it is more, so much. And what would be the relation between the lawyers and the Bench, if the Bench was delegated such a power? Can a lawyer properly in a case defend his client's rights, and his own rights from usurpation on the part of the Bench, if he knows that the same Judge can pass on the question of the fee, and arbitrarily decide whether a thousand dollars or a hundred dollars or fifteen dollars shall be the fee? Why, instead of a fearless, independent Bar, we would have a Bar of professional sycophants, always fawning on the Bench, because we would be afraid the Bench would take advantage of us the first opportunity it got. I

protest against the passage of this bill, and its insult to the Bar.

GEORGE W. CARR, Philadelphia: I desire to move to amend Section 2, which, as it stands, does not clearly show from whom the attorney shall recover his fees, if a settlement has been made by the plaintiff without his knowledge. As it stands the Court might construe the Act to mean that he shall recover them from the plaintiff. I, therefore, move to amend the section by inserting somewhere the words "from the defendant," so as to show clearly from whom recovery for the fees shall be had.

JOHN B. COLAHAN, JR., Philadelphia: On behalf of the Committee, I accept that amendment.

EDWIN M. ABBOTT, Philadelphia: The question which is before us this morning seems to me to be one which is so grave and so large that we have lost sight of what is the third party to the whole question, the third side of the triangle. We have considered first, the relation between the client and the lawyer, and secondly, the relation of the lawyer to the defendant, but there is a third side to the triangle, and that is the relation between the defendant company or corporation, or individual, as the case might be, and the persons who may be injured. It is this third condition which we all know exists that made the case of the contingent fee as it exists to-day. If it were not probably for the fact that the poor man needs a lawyer, and that he secures one through the agency of the contingent fee, and that through the agency of the contingent fee he is enabled to secure experts the same as the defendant company is, and that he is enabled to procure medical assistance the same as the defendant company have their medical advisers, and that it is through the contingent fee that the whole subject of the presentation of a case for the plaintiff is made possible for the poor man, as the company can defend it with their unlimited resources—it is probably



this condition which has brought about the question of contingent fees. But the point which I have in mind, and which if this matter is to be taken up and either passed upon or sent back to the Committee should be considered, is the relation between the corporation as it exists to-day and the person who is injured; as we all know that, within a few seconds from the time an accident occurs, the poor man is taken in an ambulance and removed to a hospital, and no one knows who his witnesses might be, while the agents of the corporation or the individual defendant are there upon the spot, and they have all of the agencies to secure that which they need beyond that, while the injured man lies either in the hospital or in his home, and somebody comes to him, and within twenty-four hours his rights, whatever they may be, however grave the injury which has come to him, are signed away for a paltry pittance, and he is left without any redress, and then, as we know, when his case is tried in Court, we are met face to face with a release signed by him, and kept under cover until the last moment. Therefore, while this matter is under consideration, I present to you the following amendment: Section 4 shall read Section 5, and Section 5, read Section 6, and a new section, as follows, shall read Section 4: "In every cause wherein the action is founded on trespass, and whereby the injured or aggrieved party has a claim to recover damages for personal injuries against a corporation, partnership or individual, any release executed by the injured or aggrieved party within thirty days of the date of the cause of action shall be void."

THE VICE PRESIDENT: The Chair rules the amendment out of order, as not being germane to the subject now under consideration.

EDWIN M. ABBOTT, Philadelphia: I appeal from the ruling of the Chair.

JOHN B. COLAHAN, JR., Philadelphia: I think, in view of the position that the debate has taken—I begged

my friend Mr. Simpson not to intervene—that if the bill was recommitted we might have the benefit of the wisdom of the gentlemen here—I think now we have reached the time that probably the bill had better be recommitted. I think a great deal of what has been said by the gentleman who just took his seat. I think there is a consideration that probably we have omitted. It has been our earnest endeavor to cover all sides of this question, and I have felt that if this thing was taken up on this floor, we could come back next year with a bill that would satisfy, not everybody, but nearly everybody; and I, therefore, take this opportunity to move a recommitment.

J. McF. CARPENTER, Allegheny: I would not object to anything that Mr. Simpson or Mr. Colahan desires, provided I could agree with them. I want, however, to say this; I am conservative, I believe in going slowly, but it seems to me that the habit of this Association is to postpone and postpone. The Legislature meets before this body can meet again, and then it does not meet for two years. Now, are we not just wasting valuable time? The matter which the gentleman just spoke of might be put into a separate Act, for it has nothing to do with this Act. Let us get down to business, and test this Act just as the Committee has presented it, with the modifications or amendments suggested.

THOMAS J. MEAGHER, Philadelphia: I agree with the gentleman who has just spoken. This is a matter we ought to deal with now. But it seems to me that Mr. Dougherty has struck the keynote of this matter. I was impressed yesterday—and the good sense of the body was against me in it—that we should not go before the community as if we were men who needed schoolmasters. It seems to me to be very plain, gentlemen, that the Bar of Pennsylvania has its integrity, as it always had its integrity. Is it possible that we need this sort of regulation? Is it possible that we need to go before the community and say that

we are a lot of precious rascals? I do not believe it, for one. I think this constant agitation is not only unwise, but I think it is positively immoral, because it proceeds upon ground that is untrue; and anything untrue is immoral. What is the situation with respect to contingent fees? I cannot take up this Act section by section, but in substance it is this—without a situation rendering it necessary, without giving a man notice—for notice is not even required by this Committee, but because, forsooth, after a case is ended, and after a fee is collected, the Court, according to the language of this Act, can fix the fee, after the event and without even giving counsel concerned notice. Is that due process? 'Would any constitutional lawyer in this body say that is due process? But I care nothing about the language. I could say, again, that they disregard the fact that the Superior Court has no jurisdiction in cases of disbarment under existing statute law in this Commonwealth. But I care naught for that. I take the broader, higher ground that this whole thing is conceived in an improper spirit, and I say that not because I have not the highest respect for all the gentlemen on that Committee, because I do entertain the highest respect for all of them, and they know I entertain it. But what about poor litigants? What about people who make contingent fees necessary? As some gentleman said on the floor, there are many members of this Association who have never entered into a contract. I have tried a few negligence cases, and I never took a contract in my life in writing, and I would not do it, any more than any of the honorable gentlemen who have spoken here would do it. And is it that we have gotten so low, that we have gotten into the sewers of human degradation, where the lawyer and the client cannot trust each other? Is that possible? Are you going seriously to debate such a proposition? To me the whole thing is utterly absurd, and utterly incomprehensible. What about contingent fees? I hope I do

not shock any man when I say that I take contingent fees, and I hope I shall have an opportunity to take many more. Is there any protest from the clients? Have the clients come before this Committee, and said, "Why, we have been badly dealt with; lawyers have robbed us"? I have heard no complaint from that source. I have heard complaints from other sources, which I do not think, however, have affected the Committee in recommending this Act. But, is not the whole thing conceived in an utterly improper spirit? Why do we need contracts to have this matter dealt with? Look at the opportunities for blackmail. Most times, after a case is tried, clients are dissatisfied, and have said, I do not think the lawyer really did very much. Is it possible that the lawyer is to be brought into Court, and have it said he did not give his client a copy of the contract? Shall my client be permitted to go into Court and say, "Why, Meagher did not give me a copy of that contract," and, therefore, according to the terms of this Act, he is to have no compensation? Are you going to put that power in the hands of an unscrupulous client? That is what the Act does. And who is to say what proper solicitation is? Some of us suffer because of the fact that we are not commercial enough to adopt methods that are current. But who is going to say what improper solicitation means. If a friend of mine says to a man who needs a lawyer, "I think pretty well of Mr. Meagher," perhaps that, in the minds of those who know my lack of ability, is improper solicitation. Then again, is Mr. Leaming to be put in the same class as myself? Every man appreciates he is the best negligence lawyer in Pennsylvania. If a man goes to him and agrees to give him fifty per cent., I say that is better than agreeing to give Tom Meagher five per cent. And yet what is that situation? How are you going to determine these questions? Is a lawyer's standing not to be thought of or regarded? Why, gentlemen, to my mind, as I said at the beginning of this debate, you are practically

saying to the community, "Although I am a lawyer, I am not a gentleman."

FREDERICK S. DRAKE, Philadelphia: If it is true that we have members of the Bar, who ought not to be members of the Bar, what is our Board of Censors for?

THE VICE PRESIDENT: This bill has nothing to do with a board of censors, and the discussion must be confined to the bill before the house.

FREDERICK S. DRAKE, Philadelphia: I am discussing this bill, but I say that there is no necessity for such an Act of Assembly, because if there is any abuse which requires correction, we have the remedy in our own hands. If there are members of the Bar doing that which they ought not to do, they can be corrected.

ALEX. SIMPSON, JR., Philadelphia: I renew my motion to recommit.

THOMAS J. MEAGHER, Philadelphia: I offer as a substitute for that, that the Pennsylvania Bar Association deem it inexpedient to discuss the subject of contingent fees.

Duly seconded.

FRANCIS FISHER KANE, Philadelphia: I have already spoken once, and I have very little to say. The new motion, as I understand it, is that this Association closes its mouth as to the question of whether we should talk over contingent fees and their abuses. I cannot imagine the Association stultifying itself to such a degree, and, therefore, I will not say another word about it. I cannot imagine that.

The question being upon the motion that this Association deems it inexpedient to discuss the subject of contingent fees, and a division being called for, there were thirty-one yeas and seventy-five nays, whereupon the Chair declared the motion not agreed to.

J. McF. CARPENTER, Allegheny: I withdraw my objection to Mr. Simpson's motion. I said I always had difficulty to agree with him, unless his opinion was my own.

THE VICE PRESIDENT: What is Mr. Simpson's motion?

ALEX. SIMPSON, Philadelphia: That the matter be referred back to the Committee for further consideration.

Duly seconded, and agreed to.

FRANCIS FISHER KANE, Philadelphia: May I make a motion, which is that Mr. Abbott's amendment be also referred to the Committee. I think it was a very good suggestion.

Duly seconded, and agreed to.

FRANCIS FISHER KANE, Philadelphia: I beg to offer the following resolution:

*Resolved*; That the Pennsylvania Bar Association ask the Legislature of Pennsylvania to authorize the appointment of a Commission to inquire into the working of the present law regulating the liability of employers for industrial accidents; the comparative justice, merits and defects of the laws of other States and countries relating to the subject, as well as the causes of such accidents; with power in said Commission to recommend such new law or laws as it may deem wise, having due regard to the constitutionality of the same, to the end that the defects in our present laws, if any be found to exist, may be effectively remedied. Said Commission to be appointed by the Governor, and to consist of three members of the Senate and three members of the House of Representatives of the State of Pennsylvania, two leading employers of labor, two members of trade organizations to represent the workmen of Pennsylvania, an expert in the science of political economy, and a representative of the charitable organizations of the State, familiar with the conditions of wage earners and the unemployed, such an appropriation of money from the State Treasury being made for the expenses of the said Commission as may be necessary in order that it may be able to do its work thoroughly and effectively.

Duly seconded, and agreed to.

On motion, adjourned.

**THIRD DAY, AFTERNOON SESSION**

THURSDAY, *June 30, 1910.*

The Association reassembled at 3 o'clock p. m., Vice-President CLEMENT in the Chair.

THE VICE PRESIDENT: The Association will come to order. The first item of unfinished business this afternoon is the report of the Special Committee on Road Laws. That Committee has made no report. What is the pleasure of the Association in regard thereto?

ALEX. SIMPSON, JR., Philadelphia: Unless there is some member of that Committee present to speak for it, I would like to say that there seems to me no reason why the Committee should be retained. The subject committed to it is not one fairly within the purview of the Association. I would move, therefore, that the Committee be discharged from further consideration of the subject.

Duly seconded, and agreed to.

THE VICE PRESIDENT: The next item of unfinished business is the consideration of the report of the Special Committee on the Attorney-General's Department.

THE SECRETARY: The Attorney-General reported at the first session of this meeting that he desired additional time.

JOHN B. COLAHAN, JR., Philadelphia: I move that the Committee be continued, with instructions to report at the next annual meeting of the Association.

Duly seconded, and agreed to.

THE VICE PRESIDENT: The next item of unfinished business is the consideration of the report of the Special Committee on Digesting of Statutes.

THE SECRETARY: That Committee was continued, on motion of Mr. Hensel, at the time of the presentation of its report.

THE VICE PRESIDENT: The next item of unfinished business is the consideration of the report of the Special Committee on the Judiciary Department.

THOMAS S. BROWN, *Chairman*, Allegheny: The report of this Committee has been printed, distributed, and in your hands for some days. The Committee, however, since printing the report, has concluded to amend one feature of it, or some of the expressions therein contained, and I wish to have that amendment made and noted. Near the beginning of the report occurs the sentence, "A Judge, to be elected must first be chosen and then supported as the candidate of a political party; or if he runs on a so-called independent ticket, it is usually after he has sought, and failed to secure, the nomination of one of the parties."

That seems to have an invidious meaning, which is not intended at all by the Committee. We, therefore, wish to amend the sentence by striking out the latter part of it, and inserting the words, "in the usual and ordinary conditions," after the word "first," so that the sentence will read:

"A Judge, to be elected, must first, in the usual and ordinary conditions, be chosen, and then supported, as the candidate of a political party."

As thus amended, I move the adoption of the report of the Committee.

Duly seconded.

THOMAS S. BROWN, Allegheny: I do not wish to take up time in going over the discussion of the subject contained in this report and presenting it anew. I simply wish to call the attention of the members of the Association to the recommendations in the report. The reason why those recommendations are made are set forth in the body of the report, and have probably been read by some, and perhaps by many of you. Whether they sustain the recommendation sufficiently to induce the Association to



adopt the report, or whether the Association will take other action is for you to say. The principal recommendation is this, that, for the reasons set forth in the report, it is the judgment of the Committee that the Common Pleas Judges and Orphans' Court Judges of this Commonwealth should not be eligible for re-election, that they should be confined to one term, in order that thereby the improper and undesirable influence of politics may be eliminated, or at least minimized to the greatest extent. But not being eligible for re-election, if the term were left at ten years, as it now is, the office would not be sufficiently attractive to the kind of lawyers whom we wish to have fill it. We, therefore, suggest that the term should be lengthened to the period of twenty-one years, the same as that of the Supreme and Superior Court Judges; and further, that there should be provided for all Judges of this Commonwealth a pension after they have served their full term, and are past the age of sixty-five years. This, however, would not mean that a Common Pleas Judge, for example, would be ineligible for promotion to the Appellate Courts. That is the principal, primary recommendation of the report.

Then the report discusses the powers vested in the Judges of appointment to certain offices, and this constitutes one of the main difficulties of the situation so far as the influence of politics upon the judiciary is concerned. For the reasons set forth in the report, this Committee does not recommend any change to be made in that respect. However, it is our belief, as well probably as the belief of everyone else, that the appointments to office, which are of an administrative character, properly belong to the executive department, and ought not to be in the hands of the Judges if it could be avoided. But from the fact, and for the reason, that there does not seem to be any likelihood of the substitution of other tribunals or powers to make those appointments, which would be satisfactory to

the people of the Commonwealth, we think it would be better to leave that as it is, but recommend that the sentiment and influence of this Association should be directed against any extension of these powers, excepting the appointment of officials directly connected with the conduct of the business of the Courts.

The next point taken up is the question of liquor licenses, the granting of which is now vested in the Judges of the Quarter Sessions. The judgment of the Committee also is that that function should be vested somewhere else, if practicable, and that it is a burden and snare to the judiciary; but, until we have further light upon the subject, we fail to see where else to place it in a manner satisfactory to the people of this Commonwealth. We, therefore, recommend that this Association appoint another Committee to consider this subject, and report at the next meeting of the Association.

I should, however, also refer to the Minority Report by Mr. Budd, which is also before the Association. As I understand that report, it practically agrees with the report of the majority, except as to any extension in the term of the judicial office, and it positively recommends taking away from the Judges of the Common Pleas Courts all powers of appointment outside of strictly Court officials, and also taking away from them jurisdiction in the matter of liquor licenses, but does not offer anything in the way of a substitute tribunal for the exercise of the power of licensing the sale of liquor in the event of its being taken away.

JOHN B. COLAHAN, JR., Philadelphia: It seems to me that just now, at the close of our meeting, is a very unfortunate time to consider a subject so important as this; and, if it does not conflict with the desires of the Committee, I would move that the subject be recommitted, with instructions to report at a future meeting of the Association.

THOMAS S. BROWN, Allegheny: May I add an amendment to that—that a Special Committee be appointed to consider the matters of recommendation contained in the report?

JOHN B. COLAHAN, Philadelphia: I cannot accept the amendment, because I do not see any advantage in having a new Committee. The present Committee has considered these questions, and are, therefore, more capable of passing upon them than a new Committee.

THOMAS S. BROWN, Allegheny: I withdraw the suggested amendment.

THE VICE PRESIDENT: The Chair would suggest to Mr. Colahan that he change his motion so as to enlarge the power of this Committee to consider and report such remedial measures on this subject as may seem to it desirable.

JOHN B. COLAHAN, JR., Philadelphia: This is a very good suggestion. I move, therefore, that this matter be referred back to the Committee for further consideration, and that the powers of the Committee be so enlarged that they shall report to this Association such remedial measures as in their opinion seem necessary and wise to carry out their recommendations.

Duly seconded, and agreed to.

CHARLES D. GILLESPIE, Allegheny: I have been in conference with my friend, Brother Brown, somewhat, in regard to this report on the judiciary, and I believe I was instrumental in having the matter placed before the Convention at Bedford last year. We have had a number of talks about this matter, and Mr. Brown stated to me that the difficulty in getting consideration of the subject was that he could not get his Committee together. I understand the practice is for Special Committees not to confer. Standing Committees do confer. I think this subject is so

important that the Committee should confer upon it; and I would make the motion that when the other Committees meet to confer, this Committee be instructed to meet and confer also upon this subject in order to make the report as harmonious as possible, and discuss the question as it should be discussed.

Duly seconded.

RUSSELL C. STEWART, Northampton: Is that a fact, that the Special Committees do not confer? If that is so, it seems to me that the Committee does not perform the duty that the Association expects it to perform.

CHARLES D. GILLESPIE, Allegheny: I mean they did not meet personally and confer at the regular mid-winter meeting of the Committees; that is what I mean.

JOHN B. COLAHAN, JR., Philadelphia: In other words, they did not meet with the standing Committees.

ALEX. SIMPSON, JR., Philadelphia: There is no reason why they should not meet at the same time as the standing Committees.

THE VICE PRESIDENT: As the Chair understands the motion, it is that the Special Committee on Judiciary be instructed to have a meeting previous to the next convention.

The question being as stated by the Chair, and a division being called for, the Secretary reported 20 yeas and 20 nays; whereupon the Chair declared that he had not voted before, and now voted in the affirmative, and declared the motion agreed to.

THE VICE PRESIDENT: Is there any other item of unfinished business, Mr. Secretary?

THE SECRETARY: Not that I am aware of.

THE VICE PRESIDENT: The next order of business then is new business.

E. SPENCER MILLER, Philadelphia: As an item of new business, I desire to offer the following resolution:

WHEREAS this Association has adopted the Code of Ethical Canons, accepted by the American Bar Association, as a whole, in preference to another Code independently framed by a Committee of this organization, and

WHEREAS the Code submitted by the latter Committee contains certain subject matter which appears not to be embraced by the Code adopted,

The Committee on Ethics of this Association is directed to consider and report to this Association at its next meeting, whether there remain subjects which should be added to the adopted Code, either directly, or by the course of recommending the same for adoption by the American Bar Association, and accepting the addition of these Canons by it.

In adopting the Code of the American Bar Association, we took no action whatever upon a department of the subject covered by the report of our Committee. This Committee gave an exceeding amount of labor to the subject, and we ought not to lose the benefit of their work; and now that the subject is still warm, it seems to me we would lose if we did not put ourselves in a position to get whatever might be profitable by getting the American Bar Association to adopt this as an addition to their Code, or by adopting supplemental canons ourselves.

JAMES M. LAMBERTON, Dauphin: It seems to me we have an advance in the report of our own Committee. While we have put ourselves in harmony with our brethren of other Associations throughout the United States, it seems to me that we ought to have the benefit of the good work of our own Committee; and I, therefore, second the resolution.

THE VICE PRESIDENT: The purport of this resolution seems to be that having previously adopted Leviticus, we will now proceed to adopt Exodus.

A VOICE: Deuteronomy, rather.

The question being upon the adoption of the resolution proposed by Mr. Miller, it was agreed to.

THE SECRETARY: By resolution of the Executive Committee, I have to submit to the Association a communication addressed to the President on behalf of the State Federation of Pennsylvania Women, as follows:

May 3, 1910.

HON. GUSTAV A. ENDLICH,  
*President, Penna. Bar Asso.,*  
Reading, Pa.

MY DEAR MR. ENDLICH:—After consulting with various educational leaders and organizations, the Federation of Pennsylvania Women has decided to take the initial step in a movement whose success is already assured. In view of the important educational issues likely to be before the next Legislature, and in order that with a minimum of organization and a maximum of representation all important educational interests in the State shall have for the future a means of co-operating with each other, an educational alliance has been decided upon, as outlined in the accompanying Constitution. The plan of the organization is as follows:

After representatives are appointed, they will be requested to determine, either through correspondence or probably a formal questionnaire, the viewpoint of membership of the organization which they represent as to portions of the recently vetoed School Code which they approve or which they oppose, and such suggestions as they have to make looking toward further school legislation. After this information has been collated, it will be presented by the Education Committee of the Federation to the Council at its first meeting, for discussion with a view to reaching a consensus of opinion. This meeting will be held in Harrisburg, May 26th, 1910.

While participation in the proceedings of the Council commits no organization to a definite line of action, it is believed that all organizations will co-operate more fully through the reports which representatives will be able to make as to the attitude of the majority.

The Federation has provided the necessary funds for preliminary organization, and will surrender its direction of the enter-

prise to the Council immediately on its assembling and electing the officers provided for in the Constitution.

I would be especially glad if you could see your way clear to appoint a representative of the Bar Association from the eastern, central and western sections of the State—three in all. As you doubtless know, Mr. Rilling, of Erie, has been especially interested in the proposed Educational Code. Doubtless you will know, however, the representative men of the Bar who will be sufficiently interested to meet with the Council, without in any way committing the Bar Association on any matter discussed. As the first meeting will be held on May 26th, immediate action on your part will be highly appreciated.

Most sincerely yours,

MAY TURNER YOCUM,  
*Chairman.*

The President sent this communication to me, and, after consulting with the Chairman of the Executive Committee, we thought it would be best to await the action of the Association itself, instead of undertaking to act for it. The question now is before the Association as to whether it will join this educational alliance, and co-operate with the other organization or not.

THE VICE PRESIDENT: You have heard the communication just read by the Secretary; what is your pleasure in regard to it?

ALEX. SIMPSON, JR., Philadelphia: It seems to me perfectly clear that this matter is outside of the scope of this Association. The work is a great one, of course, but we cannot undertake all the great works coming along. I move, therefore, that the Secretary be directed to write to the person from whom the communication was received, simply stating that it is beyond the scope and purview of the work of this Association.

LOUIS RICHARDS, Berks: I second the motion, but would also suggest that the invitation to send delegates to the convention be respectfully declined.

ALEX. SIMPSON, JR., Philadelphia: I accept the amendment.

THE VICE PRESIDENT: It has been moved and seconded that the Secretary be instructed to reply to the communication from the State Federation of Pennsylvania Women that the matter referred to therein is not within the scope of the Association, and, therefore, their invitation to send delegates is respectfully declined.

The question being as stated by the Chair, it was agreed to.

THOMAS PATTERSON, Allegheny: I have been requested to present for your consideration a bill introduced in the House of Representatives, for the purpose of increasing the salaries of the Federal Judiciary. I think you are all familiar with the movement that has been going on for some time to have these salaries correspond at least with those of the State Judiciary. As is well known the salaries in England are, the lowest, £5000, or \$25,000 a year. The bill is as follows: known as House Bill 22075:

#### A BILL

TO FIX THE SALARIES OF CERTAIN JUDGES OF THE UNITED STATES.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following salaries shall be paid to the several Judges hereinafter mentioned in lieu of the salaries now provided by law:*

To the Chief Justice of the Supreme Court of the United States the sum of eighteen thousand dollars a year; and to each of the associate Justices thereof the sum of seventeen thousand five hundred dollars a year.

To each of the circuit Judges the sum of ten thousand dollars a year.

To each of the district Judges the sum of nine thousand dollars a year.

I do not mean to discuss the question at all, but simply submit it to the Association, and therefore move you that



this House Bill No. 22075 has the approval of this Association.

Duly seconded, and agreed to.

THE SECRETARY: I have had the following letter, which I wish to read to the Association:

June 11, 1910.

HON. W. H. STAAKE,  
City Hall,  
Philadelphia, Pa.

MY DEAR MR. STAAKE:—The enclosed is a copy of resolution which we would ask to have adopted at the coming convention of Pennsylvania Bar Association.

We are also sending copy of our Leaflet Number Four which embodies a few facts why New Orleans is the "Logical Point" for holding the WORLD'S PANAMA EXPOSITION.

Thanking you in anticipation for your kind attention to this request and assuring you of our keen appreciation for your hearty co-operation, beg to remain,

Sincerely yours,

NORMAN WALKER,  
*Chairman, Committee on Meetings & Conventions.*

SJC/SK

The letter contained the following resolution:

WHEREAS, the officials and engineers in charge of the construction of the Panama Canal have announced that it will be completed and open for commerce in 1915, and

WHEREAS, practically the unanimous sentiment of the President of the United States and other officials, the members of Congress and the American people generally, is that no celebration of the completion of the Canal can produce such immediate and beneficial results as the holding of an Exposition, where the people of the world will be brought closer together through this union of the Atlantic and Pacific, the East and West, and will meet and confer with each other and exhibit the resources and products of their several countries;

*Be it Resolved*, That we cordially approve the idea of a WORLD'S PANAMA EXPOSITION and pledge it our moral support and assistance;

*Be it Further Resolved*, That we see in New Orleans the "logical point" for such Exposition, by reason of its proximity to the Canal and because it is the gateway for a large part of the import and export commerce of these United States with the countries South of us and with the world, easily reached from all points in this continent, North, Central and South America; and in all respects suited to hold a great World's Exposition; and we therefore endorse New Orleans as the best point at which to hold the World Panama Exposition, in honor of the completion of the Canal.

I believe San Francisco also has its advocates and as there is ample time for us to have additional light on the subject between now and 1915, I think it would be proper to lay this matter on the table, and I so move.

Duly seconded, and agreed to.

STANLEY FOLZ, Philadelphia: I move the following resolution:

*Resolved*, That the Committee on Law Reform be requested to consider and report upon the advisability of amending the Replevin Act of 1901, so that in Landlord and Tenant and other cases the issues may be defined in the pleadings.

It may be proper for me to say a word on that. In replevin in landlord and tenant cases, whether in case of a lease or ground rent, if the tenant or terre-tenant replevins under a levy, the declaration states in substance that the defendant, the landlord, has taken the tenant's goods without right, and the landlord says, "I have taken them for rent," and you go to trial, but you do not know why the rent has not been paid. In other words, without the common law form of *narr*, avowry and plea, these having been abolished, there is no means of having a statement of the real issues.

Duly seconded, and agreed to.

THE VICE PRESIDENT: Is there any further new business?

THE SECRETARY: I would move that the appointment of delegates to the American Bar Association and also to the Bureau of Comparative Law of the American Bar Association be left to the incoming President. It is very desirable to have gentlemen appointed who will attend the meetings of the American Bar Association. I have had handed me a suggested list of names, but as there are not enough to go around to make three delegates to each organization, with three alternates, I think it would be as well to give the authority to the incoming President to make those appointments, and I can hand him this list, and between now and the time of meeting of the American Bar Association at Chattanooga, Tennessee, on August 30th, 31st and September 1st, the delegates can be appointed.

Duly seconded, and agreed to.

EDWIN M. ABBOTT, Philadelphia: I move that the Committee on Law Reform consider a bill making it mandatory on the Courts of Quarter Sessions, the Judges therein, to appoint stenographers. This is absolutely necessary under the law as it now exists with regard to indeterminate sentences, in order to have the record preserved. The Act of 1905 simply allows the matter to rest in the discretion of the Court, and the Court not desiring to cumber the record or put any expense on the county overrules the appointment of a stenographer. When we consider the fact that \$5.00 and \$10.00 cases from magistrates are appealed to the Common Pleas and every bit of testimony is preserved, whereas cases involving at least the liberty of the citizen are conducted in such a way that no record whatever of the testimony is preserved, I think the importance of this matter becomes very apparent; and in my opinion this Association should put itself on record of at least recommending that a stenographer be appointed to the Courts of Quarter Sessions.

LOUIS RICHARDS, Berks: May I ask my friend whether it is not now a matter regulated by law or custom that the sentence in a Court of Quarter Sessions whether indeterminate or not is a matter of record?

EDWIN M. ABBOTT, Philadelphia: The position taken by some of our Judges, and acted on now, is that the Prison Board are to act on the indeterminate sentences. There is absolutely no record, except the fact that on the back of the bill is written the sentence itself. There is nothing else to come before the Board, upon which, when the case comes before them, they can act. In other words, what I mean, is, there should be a stenographer to take the notes of testimony, as given in the Court, even after a plea of guilty has been entered, so that some record at least will be preserved upon which the Board can intelligently act when the matter is brought before it.

THE SECRETARY: I believe the practice now is in all homicide cases to employ a stenographer, and since the Juvenile Court has been in operation, all of the proceedings of the Juvenile Court are taken down by a stenographer, and are bound, so that the Judges sitting in that Court may at any time refer to what took place in the original proceedings in connection with any boy or girl brought before the Court.

RUSSELL C. STEWART, Northampton: There is no difficulty about it. Judges have authority and power to appoint stenographers. In my Court we have always had them in the Oyer and Terminer, Quarter Sessions, Juvenile Court and *habeas corpus* proceedings, and the record is always preserved.

WILLIAM M. HARGEST, Dauphin: If I understand the motion of the gentleman from Philadelphia, there is probably no difficulty in the Court appointing a stenographer; yet it is a fact that the Courts throughout the

State do not appoint stenographers for the Quarter Sessions. And now, under this indeterminate sentence Act, where there is a minimum and maximum, it comes up to the Board of Prison Inspectors of the penitentiary whether they shall recommend the release on parole at the end of the minimum sentence; and those inspectors have absolutely nothing except the fact that there is a conviction, and it, therefore, resolves itself as to the behavior of the prisoner in the penitentiary as to whether or not he shall be paroled; and it is an entirely proper thing, and it ought to be compulsory that at least in every case in which there is possibility of a sentence to the penitentiary that a record should be made.

LOUIS RICHARDS, Berks: Is not the behavior of the prisoner in the penitentiary the only criterion upon which the Board of Prison Inspectors can or ought to act as to the continuance or discontinuance of the sentence? Are they concerned with the evidence given in the case before conviction? Do they not only act, and are they not only required to act, upon the behavior of the prisoner after he is committed to the penal institution?

The question being upon the motion that the Committee on Law Reform consider a bill making it mandatory upon the Judges of the Court of Quarter Sessions to appoint stenographers, it was agreed to.

THE VICE PRESIDENT: Is there any other new business?

WILLIAM W. SMITHERS, Philadelphia: I move that the Treasurer be given authority to make payment of \$70.00 in renewal of the dues of this Association in the Comparative Law Bureau for the year 1910.

Duly seconded, and agreed to.

THE VICE PRESIDENT: Is there any further new business? If not, the Chair will recognize the Chairman of the Committee on Admissions, for his final report.

EDWARD J. FOX, *Chairman*, Northampton: The Committee on Admissions makes the following

# **SUPPLEMENTAL REPORT OF COMMITTEE ON ADMISSIONS**

*June 30, 1910.*

Members admitted since opening of the sessions:

F. M. McADAMS .....	Philadelphia.
WILLIAM H. WILSON .....	Philadelphia.
FRED. F. WINDLE .....	Philadelphia.
WILLIAM ELLIS HAINES .....	Lycoming
DON M. LARRABEE .....	Lycoming
FRANCIS LYTTLETON MAGUIRE .....	Philadelphia.
MAURICE V. DANIELS .....	Philadelphia.
WALTER THOMAS FAHY .....	Philadelphia.
ORMOND RAMBO .....	Philadelphia.
ISAAC C. SUTTON .....	Philadelphia.
GEORGE W. AUBREY .....	Lehigh.
J. EDGAR BUTLER .....	Philadelphia.
OSWALD M. MILLIGAN .....	Philadelphia.
HON. JOSEPH F. LAMORELLE .....	Philadelphia.
J. WARREN DAVIS .....	Philadelphia.

This makes fifty-eight members admitted during the year, thirty-four of which were admitted at this meeting.

THE VICE PRESIDENT: You have heard the report of the Committee on Admissions. If there are no objections, it will be received and filed.

JOHN B. COLAHAN, JR., Philadelphia: I think there ought to be a formal motion that all those whose names have been reported at this meeting be admitted as members of the Association, and recorded as such.

Duly seconded, and agreed to.

(At this point President Endlich resumed the Chair.)

THE PRESIDENT: The next business in order is the report of the Committee on Nominations.

ALEX. SIMPSON, JR., *Chairman*, Philadelphia: The Committee on Nominations beg leave to report the names

of the following persons for officers during the ensuing year, and ask the Association's approval thereof.

### VICE PRESIDENTS

W. A. BLAKELEY .....	Allegheny.
R. T. CORNWELL .....	Chester.
ALLISON O. SMITH .....	Clearfield.
ANDREW H. MCCLINTOCK .....	Luzerne.
A. MITCHELL PALMER .....	Monroe.

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### SECRETARY

WILLIAM H. STAAKE .....	Philadelphia.
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### TREASURER

WILLIAM PENN LLOYD .....	Cumberland.
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### EXECUTIVE COMMITTEE

CHARLES D. GILLESPIE .....	Allegheny.
SAMUEL MCCLAY .....	Allegheny.
CHRISTIAN H. RUHL .....	Berks.
FRED. BERTOLETTE .....	Carbon.
T. C. HIPPLE .....	Clinton.
E. L. WHITTELSEY .....	Erie.
ROBERT W. PLAYFORD .....	Fayette.
JAMES E. SAYRES .....	Greene.
CHARLES F. HAGER .....	Lancaster.
J. NORMAN MARTIN .....	Lawrence.
QUINCY A. GORDON .....	Mercer.
N. H. LARZELERE .....	Montgomery.
RUSSELL C. STEWART .....	Northampton.
J. B. COLAHAN, JR. ....	Philadelphia.
FRANCIS FISHER KANE .....	Philadelphia.
R. STUART SMITH .....	Philadelphia.
EDMUND E. KIERNAN .....	Somerset.
ANDREW A. LEISER .....	Union.
WILLIAM HARRISON ALLEN .....	Warren.
JAMES I. BROWNSON .....	Washington.
EDWARD E. ROBBINS .....	Westmoreland.

**THE VICE PRESIDENT:** You have heard the report of the Committee. What is your pleasure?

**EDWIN M. ABBOTT,** Philadelphia: I move the report of the Committee be approved as read.

**WILLIAM Y. C. ANDERSON,** Philadelphia: I would amend that by adding that the Secretary be authorized to cast the ballot of the Association for the candidates named.

Amendment accepted by the original mover, and motion as amended seconded, and agreed to.

**THE SECRETARY:** The Secretary has some little disinclination to vote for himself; nevertheless, he will formally cast the ballot as directed.

**THE PRESIDENT:** The Secretary reports he has cast the ballot for the gentlemen named in this report, and I hereby declare them duly elected to the respective offices.

The next business in order is nominations for President of the Association.

**JAMES M. LAMBERTON,** Dauphin: The various matters before the Association having been disposed of, and all the officers with but one exception having been elected, it only remains for this Association to confer the highest honor in its gift in selecting the President for the ensuing year.

It is one of the satisfactory things in connection with this Association that there is no contest over the offices; and especially is this the case with regard to the office of President. Political considerations have no weight here. If one examines the list of the sixteen members of the Bar of Pennsylvania who, in the past, have received this honor at the hands of their brethren, it will at once be seen that personal worth, high professional distinction and devotion to the best interests of this Association have been carefully recognized.



To be President of the Pennsylvania Bar Association is an honor any man may desire, but it is an honor no man may seek; and when that honor comes, it comes as a fitting crown to an honorable career spent in the laborious and exacting service of one of the greatest of professions, and as a distinction accorded by the hearty and unanimous recognition on the part of his brethren, of worth, integrity and ability.

The last three Presidents having been chosen, in a general way, from the eastern part of the State, not unnaturally our thoughts turn to the west, and the Bar of Allegheny County think they have a distinguished member worthy to take a place with their trio of former Presidents, Messrs. P. C. Knox, Thomas Patterson, and our lamented brother, William Scott, and I have the pleasure of suggesting for your consideration (Pittsburgh rejoices in two Edwin Smiths) the name of Edwin W. Smith, of Allegheny.

Mr. Smith was born in Pittsburgh, where he has spent all his life with the exception of four years spent at Yale, where he was the friend and classmate of a distinguished honorary member of this Association, President William Howard Taft, and from which he was graduated with high honors in the Class of 1878. He is a devoted servant of that traditionally most jealous mistress, the law, a well-read and skillful lawyer, a wise and careful counsellor, an eloquent, witty and successful advocate, and at all times a fair and courteous opponent. He is a charter member of this Association, has been a member of its Executive Committee, of which he served for a time as Chairman, and has been one of our Vice Presidents.

It gives me great pleasure to nominate for President of the Pennsylvania Bar Association my old friend and classmate, Edwin Whittier Smith, Esquire, of the Bar of Allegheny County.

THOMAS PATTERSON, Allegheny: It gives me pleasure to add a word seconding the nomination of Mr. E. W. Smith. I can add but little to what Mr. Lamberton has so well said, except of my own personal knowledge and friendship for Mr. Smith; which goes back to the time when we were both boys together at the same preparatory Latin school in Pittsburgh. Ever since that time we have been in touch with each other. I have known him, boy and man, through his school days, college days, his preparatory studies and his practice of the law. It gives me great satisfaction to say that I know of no one who has stood more squarely, more honestly, more sincerely for what is right, and just, and true. He has lived his life upon the highest plane of the profession, and has done all that in any wise promotes the course of justice. I would like to call on him for the seconding speech, because I can still hear the roars of laughter which interspersed his seconding of my nomination for the office of President. But I feel that would be an unjust thing to do; and therefore I can only say to you very sincerely and very earnestly that in selecting Mr. Smith you have only selected a gentleman whose name is an honor to the profession, who is a credit to the community, and who has justly the respect of all alike in the place in which he lives, and of the Bar of the State.

WILLIAM H. STAAKE, Philadelphia: I think it is well that there should be a word from the eastern end of the State seconding the nomination of Mr. E. W. Smith. It was not my privilege to attend the first and second meetings of the Pennsylvania Bar Association, although I was a member of it at that time. My first meeting with the Association was in the year 1897, when it was my pleasure to listen to one of the brightest, one of the wittiest addresses I have ever listened to in the way of a postprandial effort, when Mr. Edwin W. Smith told us about ourselves. It has been one of the delightful things in connection

with attendance at these meetings of our Association to see the companionship of the two Smiths, Edwin W. and Edwin Z., and therefore I do not wonder that the gentlemen making the nomination made the little slip from W. to Z.; but I have a distinct recollection of how Edwin Z. seconded the effort of Edwin W. on the occasion of the banquet at Cresson in 1897.

May I be permitted, in connection with the subject of the toast, to say, Mr. Chairman, that I think sometimes when our Treasurer reads his report, and, as at this session, we find that we apparently have made some inroads upon our reserve fund, that we forget that there are assets of the Association of which no account appears in the report of the Treasurer. How many of us remember the valuable asset we own in the Law School of the University of Pennsylvania—a collection of prints and portraits, a collection of printed matter, of documents which, if offered to the public as a whole, as a collection, would be found to have a substantial financial value? How many of you remember that in a vault in the Fidelity Storage Warehouse Company, in Philadelphia, there are many dollars of value in the reports of this Association, becoming each year more valuable, being more sought after? Besides these assets of the Association, we are interested with the University of Pennsylvania in the translation of the German Code, another asset, having cost us \$900, but which is still in existence as an asset. But above all these assets, the most valuable asset we possess is Ourselves. This asset is the minds of the men who come here with heart and purpose to labor in behalf of their beloved profession, and while laboring for it, to be serving, as they individually believe, the best interests of our beloved Commonwealth. And because Edwin W. Smith is to my mind one of the very best types of membership in this Association, a man whose name appears on the record in 1895, and has continued from that time, not only in the alphabetical list, not only on

the list by counties, but also almost every year in the list of those registering at the place of meeting; and also for the reason that I believe in honoring the man who has rendered good and faithful service, I desire to second the nomination of Mr. Edwin W. Smith.

J. McF. CARPENTER, Allegheny: I am not going to make a long speech; but as there seems to me some serious doubt as to whether Mr. Smith will be elected, I want to put in my oar to help him through, and merely to testify, as a member of the Allegheny County Bar, that, having known Eddie—as we mostly call him—all his life at the Bar, I can say from my heart, with perfect truthfulness that he has no enemies there, he is loved by everybody, and will be loved by every member of this Association when he has presided one term as President.

THE PRESIDENT: Are there any other nominations? If not, I declare nominations closed. How shall the President be elected?

JOHN B. COLAHAN, JR., Philadelphia: I move the Secretary cast the ballot of the Association.

Duly seconded, and agreed to.

THE SECRETARY: The Secretary reports that he has cast the ballot of the Association for Edwin W. Smith, as President.

THE PRESIDENT: The Secretary reports that he has cast the ballot of the Association for Mr. E. W. Smith as President, and I accordingly declare him duly elected as such, and appoint Messrs. Lamberton and Patterson a Committee to notify Mr. Smith.

ALEX. SIMPSON, JR., Philadelphia: While the Committee are out hunting Mr. Smith, I ask unanimous consent, and move to amend Section 29 of the By-laws, in accordance with the Secretary's report this year, by striking out therefrom the sentence, "If desired, twenty addi-

tional copies"—of the proceedings—"shall be sent to each member reading a paper by request." As the Secretary has said, the practice has been and is to print additional copies of the papers for those reading them. That being so, this clause ought no longer to be in the By-laws.

Motion duly seconded.

THE PRESIDENT: I hear no dissent to this motion to eliminate from the By-laws the sentence just read by Mr. Simpson; are you ready for the question?

The question being upon the motion to amend the By-laws by striking out the sentence referred to, it was unanimously agreed to.

(The newly elected President was then escorted to the platform.)

THE PRESIDENT (to President-elect): I have great pleasure to present to you, Edwin W. Smith, the gavel of the Pennsylvania Bar Association, while congratulating you and the Association upon your election.

PRESIDENT SMITH: Mr. President, and members of the Pennsylvania Bar Association:—While taking a quiet stroll on the beach, I was informed by a very friendly Committee that I had been elected to the office of President of this Association. If this be true, it would be foolish indeed for me to be unwilling to acknowledge the proud appreciation that I have in receiving this office, which is the highest within the gift of the lawyers of Pennsylvania to any other lawyer of this State. It has always been held, I believe, and wisely said, that in such cases the office should seek the man. I say to you, quite confidentially, that I would think it extremely discourteous if I compelled this office to hunt very long for me. I have never supposed that I was one of the Nestors of the Bar. I have been in practice long enough, but it has never been apparent that, in our profession, practice necessarily led to pro-

ficiency. The law is not like the game of golf, with a Colonel Bogey, who represents a standard of moderate excellence which may be reached by assiduous practice. I do not think that there is any other honor that can come to a lawyer of Pennsylvania which is quite as gratifying as this; but I say, quite confidentially, again, that it is a wise thing that the provisions of your By-laws do not require any sort of competitive examination as a basis of candidacy for the office.

I accept this office, trusting that it is too late for you to rescind your action. I disavow any qualifications whatever. I thank you.

Mr. Secretary is there any further business?

THE SECRETARY: The Secretary would communicate to the newly elected President that the matter of the appointment of delegates to the American Bar Association, three delegates and three alternates, and of three delegates to the Bureau of Comparative Law of that Association, has been referred to the President.

I would also ask, Mr. President, permission to have referred to the Committee, of which Judge McClure is Chairman, the action of the Washington Bar Association in reference to the proposed plan of abolishing the Superior Court.

THE PRESIDENT: The communication will be handed to the Chairman of that Committee. Is there any further business? If not, a motion to adjourn is in order.

ALEX. SIMPSON, JR., Philadelphia: I move that we do now adjourn.

Duly seconded, and agreed to.

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Adjourned.

## THE BANQUET

"We'll teach you to drink deep ere you depart"

—*Hamlet I, 2.*

On the evening of Thursday, June 30th, the annual banquet was held in the attractive dining hall of the Hotel Cape May. It was a notable occasion, both in point of attendance of members of the Association and of the ladies accompanying them, and in the very high character of the introductions by President Endlich, of the gentlemen selected to respond to the various toasts, and their eloquent responses.

President Endlich was an ideal toastmaster, his address of welcome to the members and guests, and his individual presentation of the speakers being most chaste in words, to the point in ideas, and brief in expression.

CHIEF JUSTICE JAMES PENNEWILL, of Delaware, responded to the toast "The United States of America," the sentiment accompanying the toast being:

"Who is here so vile that will not love his country?"

—*Julius Caesar, III, 2.*

GENERAL CHARLES M. CLEMENT, of Northumberland, in the unavoidable absence of Governor Edwin S. Stuart, responded to the toast "The Commonwealth of Pennsylvania," the sentiment being:

"Hear him debate of Commonwealth affairs!

You would say it hath been all in all his study"

—*Henry V, I, 1.*

GOVERNOR J. FRANKLIN FORT responded to the toast "The State of New Jersey," the sentiment being:

"Come unto these yellow sands"

—*Tempest, I, 2.*

JESSE E. B. CUNNINGHAM, ESQUIRE, of Westmoreland, responded to the toast "The Bar," the sentiment being:

"There's business in these faces"

—*Cymbeline, I', 5.*

E. CARROLL SCHAEFFER, ESQUIRE, of Berks, responded to the toast "The Junior Bar," the sentiment being:

"Thy counsel, lad, smells of no cowardice"

—*Titus Andronicus, II, 1.*

JOHN WILLIAM HALLAHAN, 3D, ESQUIRE, of Philadelphia, responded to the toast "The Ladies," the sentiment being:

"Your worth is very dear in my regard"

—*Merchant of Venice, I, 1.*

Everything seemed to work together to make this banquet the brilliant success it really was. The menu was excellent in selection and service, the music was good, and from the spirit of all around the board it was apparent that the efforts of the speakers were heartily appreciated, each response being received with rapturous applause, which the matter and manner of presentation of each well merited. At the close of the banquet, about the midnight hour, the Toastmaster and speakers were warmly congratulated, and no one, ladies or gentlemen, appeared to be in a hurry to retire, but lingered in the attractive lobby of the hotel for mutual felicitations upon the very bright and festive occasion. The response of the young gentleman from Philadelphia, Mr. John William Hallahan, 3d, had been specially notable, he receiving quite an ovation from his hearers both at and immediately after this unusually brilliant banquet.

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On the morning of July first the guests arose to find that within a short time after the close of the banquet the festival occasion was turned into an occasion for mourning, the joy into sorrow over a fatal accident to Mr. Hallahan. He had been sitting with a group of friends, Owen J. Roberts, Charles L. McKeenan, Harold B. Beitler, R. Stuart Smith, and John A. Nauman, Esquires. Just before the



group broke up, in response to congratulations, he had said : "Thank you very much, gentlemen, and let me say to you, that by this time to-morrow night, I shall again be with her who was the guiding star and inspiration of my response, my wife, in New London."

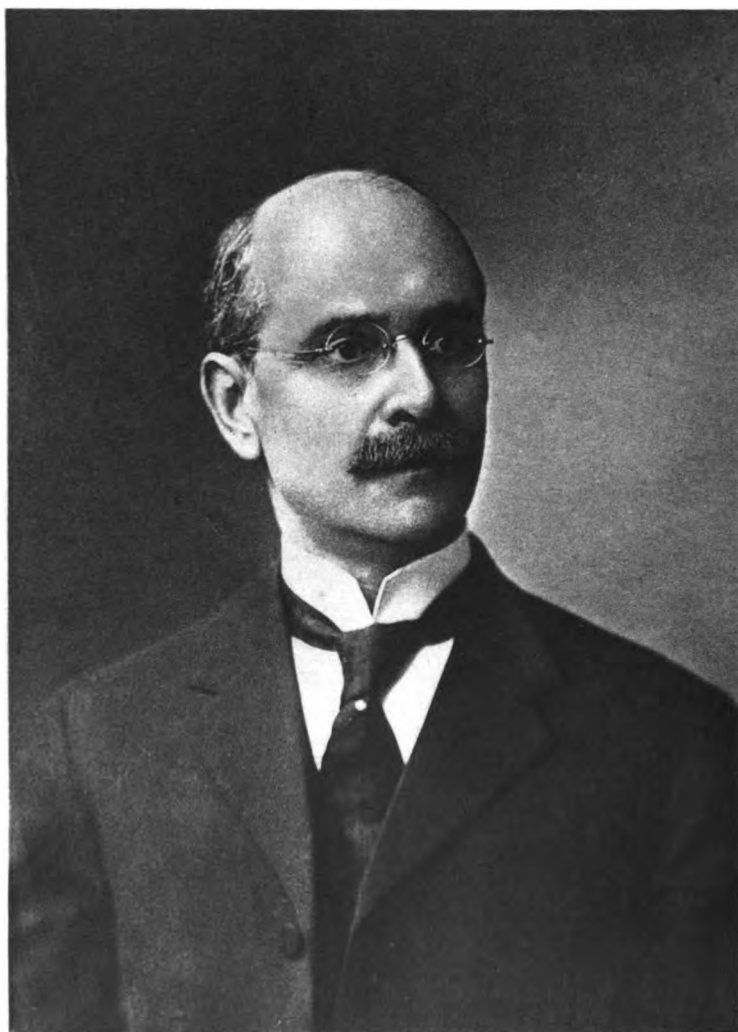
He had barely entered the elevator of the hotel, when, the door not being closed before the starting of the car (as subsequently found by the coroner's jury), his head was caught between the elevator and the ceiling of the room from which it started, and he was instantly killed. The departure from Cape May of the members and guests of the Association was in gloom, and many tears of warmest sympathy fell for the wife and two little girls, the aged father, mother and brothers of Mr. Hallahan.

Before the lamentable death of this brilliant and popular young member of the Association, many ladies and gentlemen had expressed to the Secretary their earnest desire to secure, if in manuscript, a copy of the response which had moved all to such spontaneous applause. After his death the Secretary found in the pocket of his coat notes of a portion of the address, which, with the courteous assistance of William J. Conlen and John H. Hall, Esquires, of the Bar of Philadelphia, two of his intimate friends and associates, has enabled the printing of the response, as delivered at the banquet. The officers of the Association, as a fitting tribute to the memory of their beloved fellow member, so suddenly called into eternity, have printed in the Appendix to this volume of the reports of the Association, his address, with his portrait, together with an extract from an article in *The Catholic Standard and Times*, of Saturday, July 10, 1910, from the pen of Mr. Walter George Smith, of Philadelphia.

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**JAMES PENNEWILL**

AFB

## THE LAYMAN AND

Address before the Pennsylvania

Tuesday, January 20,

By HON. JAMES C. SMITH,

Chief Justice of the State.

*Mr. President and  
Gentlemen:*

When I was in  
Congress, I hesitated  
having to some know  
the excellent speakers of  
the past, and I unqualifiedly  
accepting of what I heard  
upon what subject I was asked.

Even if I  
constitutional law  
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So it occurred to me  
to speak for a little while  
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We are living in a  
age. In the evolution of  
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character, the old in-  
sires. Nothing is so  
work. Precedent is  
been that which now  
will not suffice for to-day.



JAMES PENNEWILL

## APPENDIX

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### THE LAYMAN AND THE LAW

Address before the Pennsylvania Bar Association,  
Tuesday, June 28, 1910

By Hon. JAMES PENNEWILL  
Chief Justice of the State of Delaware

*Mr. President and Gentlemen of the Pennsylvania Bar Association:*

When I was invited to deliver an address upon this occasion, I hesitated long before accepting the invitation. Having some knowledge of the reputation and standing of the eminent speakers who had performed such service in the past, I felt unequal to the task imposed. And, after accepting the invitation, it seemed difficult to determine upon what subject it would be fitting and proper to speak.

Even if I were qualified to discuss some question of constitutional law, or some other subject equally grave, I would hesitate to do so, because I assume that of such character have been the chosen themes of former years, and that one of a somewhat different kind would not be inappropriate or unacceptable now.

So it occurred to me that it might not be uninteresting to speak for a little while upon some of the layman's criticisms of the law, and particularly of its administration.

We are living in an intensely practical and critical age. In the evolution and progress of the race we have reached a time which is pre-eminently commercial in its character, liberal in its thought and extravagant in its desires. Nothing is so old or sacred as to be immune from attack. Precedent is thought to be of no binding force, because that which may have been sufficient for yesterday will not suffice for to-day. Environments are different, con-

ditions have changed. The contrast between these later days and the earlier times it is impossible to describe; but the essential forces then were the same as now. The most valuable and effective qualities in the early days were courage, character, common sense, and a wholesome respect for the law. With all our progress and enlightenment we have nothing better now.

In comparatively recent times great changes have been wrought, both in nation and State; and the conditions existing to-day could not have been dreamed of by those who were living even fifty years ago.

"With smoking axle, hot with speed, with steeds of fire and steam,  
Wide waked to-day leaves yesterday behind him like a dream.  
Still from the hurrying train of life, fly backward far and fast  
The milestones of the fathers, the landmarks of the past."

The growth and development of our common country has had no parallel in the history of any time. The meagre millions of '76 have become almost a hundred millions to-day. The hunting grounds of the red man are now the scenes of man's highest civilization. Our products are found in every market; and the productive fields of our Western country can almost fill the granaries of the world. There is great progress, fierce competition and marvelous achievement in every field of human activity. Men, and women, too, are more impatient of restraint, and are demanding greater freedom of action and thought than ever before. They measure the things of to-day by the standards of to-day, and estimate their value largely according to their usefulness in a busy and practical age.

It has been the proud boast of the legal profession for many years, yes, during the entire history of our Government, that the lawyer has been always at the front in every important movement and work, except in times of war, and that there were none his supremacy and leadership to dispute. But conditions now seem to be a little bit changed. That supremacy and pre-eminence is being challenged to-day

by the business man, and especially by the great captains of industry—the leaders in finance. There has never been a time when business men exerted so much influence, accomplished such important things, so moulded public opinion, aye, so dominated the world as they do to-day. There has never been a time when the laboring man received so much attention, and commanded so much respect, as now. The learned professions are no longer so exclusively the church, medicine and law. Education, and higher education, is more general, special training and instruction more common, and individual thought and action more evident than ever before. But there is no reason why the influence of the lawyer for usefulness and good should be in anywise impaired. His services are indispensable still, and must continue to be so long as life, liberty and property are dear to the hearts and souls of men. But the service must be such as to adequately meet the demands, and satisfy the requirements, of a busy and rapidly moving age. The practice and administration of the law must keep reasonably abreast with the spirit of the times.

It is sometimes difficult for an individual to see his own faults, and ordinarily he does not care to have them pointed out. Likewise, it is not easy, I suspect, for the members of any profession to realize its failures or defects, and they may be too much inclined to resent the criticisms of those who do. It is not possible that the members of our profession have been so well satisfied with the old conditions that they fail to appreciate the new? It is the disposition of most persons to continue the use of those things with which they are familiar, and to which they have grown accustomed, unless fully convinced that such things are no longer effective, and that other instrumentalities could better take their place. But, as a general thing, such conviction comes very slowly, so disinclined are we to recognize the need of change. I wonder if we realize, as we should, the strong feeling which undoubtedly exists in the layman's



mind that there is something wrong with the administration of the law? It will not do to answer him by saying he does not, and cannot, understand. His point of view is different from ours but, if his criticism is just, we have no right to complain. His interest in the law is as great, perhaps, as our own, and he has a right to expect that it shall be reasonably prompt in action and effective in results.

The layman finds much fault with the law's delay, and who shall say he has no cause? When it takes weeks, and sometimes months, to empanel a jury in a single case, he thinks there is something wrong. When two or three years intervene, as is often the case, between the rendition of the judgment in a trial Court and the final decree in the Court of Appeals, he will listen to no excuse, however good it may be. When large assets are exhausted in the payment of expenses and costs, and there is nothing to apply to creditors' claims, he is utterly unable to understand. When the costs of appeal are so great as to make it available only for the man of means, he says the law is not for the poor, or even for those of moderate means. These are some of the considerations which affect the minds of men outside the profession, and upon which they base their opinions respecting the efficiency of the law. The feeling is stronger to-day than ever before, that it is better to compromise, or arbitrate, than resort to litigation for the enforcement of rights or the redress of wrongs. Some think it takes too long to reach the end after suit is brought. Others fear the expense is too great to justify them in invoking the law.

None of us, I am sure, are unmindful of the fact that there is much adverse criticism in these days respecting the law's delay, and we are forced to admit that some of the things which are said are just and true. And it is manifest that if the confidence of the people, and especially business men, is to be retained, or perhaps, regained, some improvement must be made in legal procedure and administration.

Business men are quick to think, and quick to act, and they cannot quite understand the tedious processes, and the technicalities, of the law. We have it from high authority, a highly honored member of our profession, that the administration of the criminal law is in some places disgraceful. Certainly President Taft is an able lawyer, intensely in love with his profession, and deeply concerned for its welfare and success. It is because of such concern that he sometimes uses plain and forceful language in speaking of the failures of the law. It is eminently proper and fortunate that the head of a nation whose strength and hope is in the law should manifest so much interest in its proper administration, and confidently hope for improvement, and better things.

It is impossible that the layman's criticisms and demands shall be entirely met. No human institution can be perfect, or free from fault. It may be possible, however, to make conditions better than they are. Litigation must always be expensive, and the judicial determination of important questions will necessarily consume much time. But procedure may be simplified, expenses may be reduced, and speedier results may be obtained. There is a high and pressing duty resting upon the Bench and Bar to effect an improvement along these lines. Surely they ought to have sufficient influence and power to secure the legislation, or whatever else may be necessary, to cure the evils and correct the wrongs of which thoughtful people complain. For the credit of the profession, as well as the protection of its members and the public good, they should find and apply the remedy soon.

I know perfectly well it is always easy to suggest that improvements ought to be made, but it is generally a very difficult thing to tell how to make them. The thoughtful members of the profession have given much consideration to the subject, and are not indifferent to the layman's demands, so far as they are reasonable, just and sincere.

There is a strong disposition in the profession to meet such demands as speedily and effectively as it is possible to do. Certainly no one can be more vitally interested in the standing and usefulness of the profession than its members, or more desirous that it should be equal to the requirements of the times. But important changes in a great institution cannot always be hurriedly made. Great reforms are not usually accomplished in a day. Forms, precedents, rules and procedure that have been followed or observed for many years cannot be quickly put aside, and they are not to be arbitrarily disregarded or ignored. It is better that such changes should be made carefully, and in the proper way. And it is equally important that whatever is good and useful should be retained.

It is believed that the law's delay, and the law's expense are caused more by the right of appeal than anything else. It is probably true, and perhaps nothing would have a greater tendency to cure such ills than a reasonable limitation or restriction in the taking of appeals. Suppose there could be but one appeal in any case, and the decision of the Court was final thereon? Would not the rights of litigants be sufficiently protected? Certainly costs, as well as time, would be saved. There are many persons who believe that the judicial system which produces the best results is the one that provides for a trial Court consisting of not less than two Judges, and which allows but one appeal. It can be easily understood that such system would not be practicable in a large State like yours, but in a small State it works very well. While the *nisi prius* Courts in my State are in session practically all the time, the Appellate Court is not in session two weeks in the year. Cases are tried in the first instance as thoroughly and ably as they could be in the last; and before the trial there is rarely any thought of taking the case to the higher Court. Our citizens are willing to accept the decision of a tribunal consisting of two or more Judges, and very rarely avail themselves of the

right of appeal. There is no congestion of business in the upper Court, and cases can always be finally determined in a reasonable time after the action is begun. Such a system is unquestionably the best for litigants of limited means. They cannot afford to prosecute their cases in the Appellate Court, and consequently want the strongest that is possible below.

There is no doubt that appeals, and writs of error, are often taken for the purpose of exhausting the patience, or means, of the adverse party, and the accomplishment of such purpose is possible in proportion to the number of appeals the law allows. A reasonable limitation, therefore, upon the number would go far towards removing what is thought to be one of the greatest hardships and inequalities of the law.

Much has been said and written in recent years respecting the duty of Appellate Courts in passing upon the judgments of lower Courts. It has been strongly insisted that such judgments shall never be reversed unless it is affirmatively shown by the record that injustice was done to the appellant in the trial below. It is not easy to understand how such a rule could be practically applied, or to clearly comprehend exactly what it means. How could it affirmatively appear that the improper admission or rejection of testimony worked an injury to the plaintiff in the appeal unless the Court is to determine what the force and effect of such testimony should have been. Certainly the Court could never tell what effect it would have had on the jury that tried the case. It might have been ever so important, even vital, in the minds of the jury, and such fact be incapable of being shown. I assume it is the law in every State that the lower Court shall not be reversed for error that is harmless, or unprejudicial to the appellant's rights. Is not that as far as the upper Court can safely go without encroaching upon the province of the jury, and exercising powers that belong to them alone?

It may be that judgments of lower Courts are sometimes reversed for insufficient cause. Certainly the Court of review should always exercise great care in this regard. The judgment given below should never be set aside unless the Court of review are clearly of the opinion that an error was committed which may have been prejudicial to the interests of the appellant, and without which a different result might very well have been produced in the trial below. While there has been much impatience shown because of the time consumed in the Appellate Courts before decisions are handed down, the criticism has been directed against the law, and not against the Courts. It is a well-known fact that the business of such Courts is ever increasing, and while the Judges have been diligent and faithful in their efforts to relieve the congestion, they have been unable to accomplish the result. What shall be done to meet the situation is one of the most difficult problems to solve in the due and proper administration of the law.

Closely related to the subject of appeals is the granting of new trials, and Courts have not escaped criticism therefor. But I am satisfied the layman does not fully appreciate the many difficulties Judges have in determining questions which applications for new trials involve. There is no duty which they find harder to satisfactorily perform, and none that is more carefully and conscientiously discharged. Judges realize, as well as other persons, that new trials should never be granted except for good and sufficient cause, but sometimes there is such cause. It may be technical in a sense, and yet seem controlling to the judicial mind. Judges do not make the laws, nor can they disregard them when made. It is their duty to construe and declare the law, and it often happens that they are compelled to render decisions which they would rather avoid. Judicial action may be entirely at variance with personal feeling and desire. Judges often wish the law was different to what it is, and regret the course they are obliged to pursue. Perhaps this

is not so clear and convincing to the layman's mind because he is apt to think that every case should be decided according to what appears to him, in the abstract, to be just and right. He is perfectly honest in such belief. But he does not always know that the judgment which he questions was inevitable under some rule, requirement or limitation of the law which the Court could not conscientiously disregard. The consideration that controls may be technical in the sense that it does not involve the merits of the case, but if it is clearly the intention of the law it is just as binding upon the conscience of the Judge as any other duty he has to perform. It does not seem either reasonable or fair to condemn the Court for the imperfections of the law.

Judgments of lower Courts are sometimes very reluctantly reversed. Verdicts of juries are sometimes regretfully set aside; and rarely are either judgments or verdicts annulled when they can be legally or properly sustained. It may be true that in some jurisdictions the facilities for obtaining new trials are greater than should be. It does seem reasonable that a new trial should never be granted except by the Court that tried the case, or by the higher Court upon appeal. And while the granting of a new trial may rest in the discretion of the Court, it must be a sound and legal discretion, and not one that is based upon sympathy or caprice, or any other improper ground.

There are some persons who have but little faith in jury trials, and who think the administration of the law would be very much improved if questions of fact, as well as law, could be determined by the Court. I do not agree with those who entertain such opinion. A miscarriage of justice may sometimes occur on account of the incompetency, or misconduct, of the jury, but this old institution has not yet lost its power for usefulness and good. I have great confidence still in the honesty and capacity of a jury composed of average men. The faults and mistakes complained of are owing, as a rule, not so much to the jury

system as to the mode of the jury's selection. When good men are appointed to put the names in the box, the jury is not a failure, but a most valuable aid in the law's administration. I believe that twelve honest and fairly intelligent laymen are better qualified to deal with questions of fact than lawyers could possibly be. It is amazing with what facility they reach conclusions which seem to be just, even in cases where the facts are complicated and difficult to understand. Jurors are not ordinarily affected by technicalities, or immaterial and unessential things. In a most surprising way they pierce through forms, go straight to the merits of the case, and arrive at a verdict that is reasonable and fair, and amply warranted by the evidence in the case. Judges sometimes wonder how it is done, for they scarcely know what they would do themselves. As a rule, verdicts seem to be reached by the simple application of common sense to the facts and the law; and after all, there may be no better or safer guide. Jurors perform their duties very much as they transact the ordinary business affairs of life, and decide the questions submitted in such manner as they believe to be right between man and man. When their term of service is ended they return to the life and duties from which they came. If any mistakes have been made, or criticisms incurred, they are soon forgotten when the persons censured have disappeared. But such would not be the case if Courts were compelled to pass upon the evidence, as well as the law. When they decide questions of law the layman naturally feels incompetent to judge whether the decisions are right or wrong. But if they are questions of fact, he thinks his own opinion as good as the Court's. The jury is, therefore, not only a most effective instrumentality in the enforcement of the law, but a protection as well to the reputation and standing of the Court. If the Judge was obliged to determine all the questions the jury must decide, the probability is he would soon become so

involved in censure and abuse that his usefulness would be seriously impaired.

Old things are rapidly passing away. Many institutions that were deemed indispensable in the past are regarded as of little value now. But every change is not for the best. Every innovation is not progress, or necessarily an improvement or advance. Let not the hand of the reformer destroy the old jury system, which has been a distinguishing feature of the law among English-speaking peoples in the years that are gone. Nothing better has yet been suggested. Nothing has been mentioned which is competent to take its place. For centuries the jury has been regarded as the surest protection of personal liberty, the safest refuge of the innocent, and the strongest hope of the oppressed. And it will so continue, if allowed to stand, as long as good, hard and practical sense is the law's most effective and valuable aid in determining questions of fact, and the consequent rights and duties of men.

There is one very frequent criticism of the law which is not only unwarranted but difficult to understand. I refer to the charge, often made, that the rich stand a much better chance before Judges and juries than the poor. Mistakes are sometimes made, but it cannot be true that the man of wealth receives from the Courts favors that are denied to those of slender means. Because of his means the rich man has advantages there, as he has everywhere. He is able to avail himself of every right of appeal, and of other opportunities for delaying the final determination of the cause. He can thus make it expensive, and otherwise difficult for his less resourceful opponent to prosecute or defend his case. But these are advantages that spring from wealth itself, and not from the favor of the Courts. No way has yet been discovered of equalizing the opportunities and advantages of the people. There are too many factors involved in such a problem to make it possible of solution at any time, or anywhere. Very many difficult, and seemingly



impracticable, things are being attempted in these days, I know, but this is one that can never be accomplished while great differences exist in the capacities and conditions of men. Courts and juries are powerless to effect many consummations that are devoutly to be wished. But rare is the instance, I am sure, where favoritism is shown to a suitor because of his wealth, position, or any other cause. There is a good deal of human nature in a Judge, and if not corrupt, he is much more apt, in the discharge of his official duties, to incline to the weak, rather than the strong. He is ordinarily possessed of some measure of human sympathy, and his disposition is to help those who are least able to help themselves. The wealthy man is often successful in the Courts, and corporations are perhaps equally so. But the rich are sometimes right, and corporations are not always wrong. The Judge has one plain duty to perform and that is, to decide the question presented according to the law as he understands it. He cannot be influenced by any feeling other than his honest conviction of the right. I cannot but think the suspicion, or belief, that Courts and juries are partial to the wealthy class, is based upon a tender regard for the weak, and hope for their success, rather than upon any improper action in the Courts.

I am willing to admit that lawyers, and judges, too, may be sometimes controlled too much by what are called the technicalities of the law. Substance is perhaps too often sacrificed to form, and many cases are lost before the merits are reached. It is not surprising that the layman is unable to understand, or appreciate, why such should be the case. When he listens to the reading of an indictment for murder framed under the rules of the common law, to a declaration in ejectment, or some other legal paper which contains all the verbiage of the old English law, he wears a puzzled look, and cannot comprehend why it is necessary or what it all means. He wonders how the defendant can clearly understand the charge. Such things

are not easy for us to answer in a satisfactory way. By retaining these old forms, and adhering so closely to matters that are sometimes purely technical and unessential, do we not lay ourselves open to the charge that the profession is not progressive, but is standing still in a rapidly moving and changing age? It will not do to say that the present condition of the law is the result of centuries of thought and growth, that it represents the accumulated wisdom of the ablest minds of the past—the fathers of the law—and is the perfection of reason. The reply will probably be that the machinery which may have been well suited to conditions existing a hundred years ago will not adequately meet the requirements of the present time. We will be told that in the law, as in other departments of action and thought, only such old things should be retained as are reasonably adapted to the necessities of to-day. It will be said that ancient forms and procedure must not be permitted to stand in the way of modern progress, or needlessly embarrass the due and proper administration of the law. This is not a very sentimental age. There are no great poets, but very many great business men. It is the useful and practical that appeal most strongly to the people to-day. The past is interesting in a way, but the present is more interesting still, and the future more important than all.

We are charged, as already stated, with being controlled to an unreasonable extent by what are called “technicalities,” by unimportant and unessential things, matters not of substance but of form. Is it true? It may be that we are not the best qualified to judge. The indictment is against the profession. It is on trial at the bar of public opinion, and we cannot decide the case. Any defense that we might make would probably be regarded as technical as the offense with which we are charged.

We realize that intelligent and honest public opinion should be respected, and its demands complied with if they are reasonable, practicable and fair. It is unfortunate

whenever a case is determined otherwise than upon the merits, and especially so if the result is caused by the mistake of counsel in the case. Unquestionably every proper effort should be made to avoid such results. Much is being done in this direction, and there is no doubt that the time will soon come when the sincere and sound criticisms of good and well-meaning people respecting the law and its administration will be fully met.

While the legal profession has been rather severely criticised for some things, it is gratifying to know that there has been no attack upon the integrity of the Bench and Bar. Certainly no such attack could be successfully made. There have been individual lapses and fallings from time to time, but when the great number in the profession is taken into account, such cases are surprisingly few. In this regard it can very well stand the test of comparison with any other profession, and it would be unfortunate if such were not the case.

There is no one who sustains more confidential relations with others than the lawyer with his clients; no one who is trusted in important business and financial affairs to such a great extent; no one who has better opportunities to deceive and defraud; no one who is subjected to greater temptations to do wrong, if the moral fiber is weak. And yet, the instance is rare indeed when the client's confidence is betrayed or he is wronged by his counsel in person or estate.

It has ever been the pride and glory of our profession that its members have been so true to the oaths they have taken, and the obligations they have assumed.

May there be no falling away in the future from the high standard maintained in the past. The character of the profession is, after all, more important than anything else. It will be always its surest and best protection and defense. If it cannot be impeached, other complaints may be successfully met, other criticisms overcome. More is

expected from the legal profession now than ever before; and upon its integrity, capacity and opportunity, depends very largely the strength of the law, the success of our Government, the safety of the people and the hope of the future. The standing of any class can be determined only by the conduct of its members—their reputations in the communities in which they live.

The late President Harrison once said, when speaking to some friends who had come to congratulate him upon his nomination for the office of President: "Kings sometimes bestow decorations upon those whom they seek to honor; but that one is the most highly decorated who enjoys the confidence and respect of his neighbors and friends." In none of his many apt and happy speeches did Mr. Harrison ever utter more truthful words.

Richard Cobden, when a very young man, said to his employers on a certain occasion: "Why is it that you are willing to trust me so far when you know I have no money at all?"

The answer he received was this: "With us, it is not money, but character that counts." With Cobden character did count, and it will with every lawyer, or person, who makes its building and keeping the serious effort and purpose of his life.

So far I have been speaking of the layman's criticisms of the law, but now let us change the subject for a little while. There are some criticisms that may be made concerning the layman's attitude towards the law.

There is a feeling prevalent in this country to-day that the people generally are losing their respect for and confidence in the law. Can it be true? Such a condition would be fraught with the gravest perils, and surely there could be no greater menace to our institutions. Respect for the law is the saving quality in any nation, and without it we would be completely and hopelessly at sea.

Such questions as these are sometimes asked: What is the good of law anyway? Does it accomplish those things which it was designed to accomplish? Does it receive, even from intelligent people, sincere and proper respect? Is not the spirit of defiance as great as the spirit of obedience?

Such questions are pertinent and timely, and should be interesting to every good citizen.

There have been periods when the law was impotent and ineffective. But have we reached such a period now? There have been times when the higher orders of society were more dangerous than the criminals of the lower class, but is it so to-day?

Let us not confuse the law with its enforcement. The one, in its principles, is the same yesterday, to-day and forever. The other varies as man's moral condition varies. Laws are of no avail unless supported by the moral sense of the people. Legislatures may enact, Courts may administer, and officers may execute, but unless the public mind and heart approve, the vital force is lacking, and the power for good as well. Laws do not make men and women honest, although the fear of the law sometimes makes them seem to be. It is the honesty of the many that makes it possible to enforce the law against the offending few.

If there is in this country to-day, as many persons profess to believe, a general disregard of the law, and a contempt for its penalties, then it is certain that the morals of the people are low, and the public conscience dull. And whenever the law is not enforced against the high as well as the low, the fault is not so much in the law as in the public sentiment that stands behind the law.

I have sometimes thought that perhaps the chief element of strength in the Japanese during their recent war with Russia consisted in the absolute surrender of the individual will to an authority higher than self. It may have been obedience to the voice of the elder statesmen, worship

of the Emperor, reverence for the spirits of their ancestors, patriotism, or something else. Nevertheless, it was something as sacred as law; something for which they had respect; something in which they believed; something that made useful and desirable citizens, and soldiers and sailors as brave and true as the world had ever seen.

And so I say, in order that the law may be effective the body of the people must believe in and respect the law; and public sentiment must demand that those who occupy the highest positions shall be no more above the law than the humblest citizen in the State.

The one thing that is, perhaps, more discouraging than any other to those who seek to enforce the law, is the feeling that crime may be increasing notwithstanding the penalties that are imposed, and the severe punishments that are inflicted. It does seem at times that such increase is in a greater ratio than the increase in population, and that the penalties of the law have but scant terrors for those who are criminally inclined. Conditions would not be so perplexing if the increase of crime was confined to the lower orders of society, but such is not the case. The ignorant may not always appreciate the consequences that must follow infractions of the law, but the educated and intelligent do. They read the current news, know what punishments are meted out to others, and yet, in the face of such examples and warning, many of them commit crimes of the same character themselves. A bold and daring spirit seems to have taken hold of the people, and it is manifested in many ways. Many do not hesitate to risk life, reputation, the happiness of homes, and all the dearest things in life in order to accomplish their ambitious or wicked desires.

It is not surprising that in this country, which is known as the land of the free as well as the home of the brave, there should be found many persons who, through ignorance, misconceive the true character and spirit of our institutions. They seem to think that here liberty has no restraints, free-

dom no limitations, and that unrestricted license is the privilege of every one. Such persons must learn, by bitter experience it may be, that freedom is not license, and that the absolute liberty of one man ends just where the liberty of another begins.

But what shall we say of the other class, those who read, and think and know? How shall their criminal tendencies be restrained? Punishment of others does not seem to deter, and there is nothing apparently that makes them afraid. Wherein lies the hope of better conditions, better things? I answer, not so much in higher education as in higher morality. Not so much in the enlightenment of the mind as in the awakening of the conscience. The higher the education the greater the capacity for harm if the moral nature is not developed, too. The ideal and safe society is that in which the two advance together, and where the power of the brain is equaled only by the goodness of the heart.

But let me not be misunderstood. There cannot be too much praise for the highest possible education and training of the mind. Our colleges and universities are rendering valuable service in raising the standards of scholastic work. And yet, it should not be forgotten that there is one thing more important than all the learning obtained within college walls, and that is a good character. Without it knowledge and education are in vain. Lacking that foundation the superstructure, though built of the finest materials, will most assuredly fall.

The hope of the future must rest now, as ever, largely in the Church, the home and the public schools. Those great institutions which instill into the minds of the young a proper respect for authority and teach the earliest lessons of obedience to law; those instrumentalities and powers that can get right close to youthful minds and hearts and shape the destinies of human lives. May they fully appreciate their opportunities and responsibilities, and may the hand of the potter be equal to the moulding of the clay.

Our people have been, as a rule, home builders and home lovers, and it is most essential that they should continue to be. Certainly there is nothing more helpful to a nation or more promising for the future than a deep-seated love and attachment for the home. The danger is that under modern conditions such an attachment may lose its hold upon the people, and especially the young. Other places are wonderfully attractive, but none should ever be permitted to supplant the home. It is the unit of our civilization, the strength of our Government, and the strong friend of the law. In this busy and pleasure-loving age it is the safest and surest anchorage of all, and if it should fail to hold, the future must be dark indeed.

We hear very much now about the wickedness that prevails in these later days. It is indeed widespread and enormous, and can be neither disregarded nor excused. But notwithstanding its prevalence I do not believe the world is growing worse, or that our own country is exceptionally bad. There has never been a better time than now; there never was a better land than ours. I do not believe that conditions are so bad, in fact, as sometimes represented, or that government is generally so vicious and corrupt as many would have us believe. The present is a wonderfully rapid and busy age. Like time and tide it waits for no man. Its dominant characteristic is an all-consuming desire to win. The fire of battle is in the blood, the craze for victory in the heart. The feeling that controls, however, is not so much to make the money as to score the point, to win the fight. It must be admitted that such a masterful, all-conquering spirit seems neither fair nor good, and yet it is the thing that has contributed so much to the making of a rich and powerful nation, strong and respected at home and abroad.

Can it be possible that the pace of modern life is so rapid we are losing sight of some of the useful qualities and virtues of the earlier days? Old things have



largely passed away. All things, they say, are new and better than the old, but is it in every sense true? Washington, Marshall and Hamilton were great men in their day; there have been no greater since. Each was illustrious in his time, unequaled in his sphere. We cannot measure the value of lives and characters such as these, and it sometimes seems that the influence exerted by them after death is greater than before.

"If a star were quenched on high, for ages it would its light  
Still traveling downward from the sky, shine on our mortal sight.  
So, when a great man dies, for years beyond our ken,  
The light he leaves behind him falls upon the paths of men."

Surely this nation was wonderfully blessed in its early history, and we need not marvel so much at the superstructure when we know the foundations were laid by such master hands. It is a common saying that a kind Providence has kept careful watch over the destinies of the Republic, even from the time of its birth. I believe it is true, and I believe it is equally true that there were never human agencies more fit to co-operate with the will Divine than were found in that splendid galaxy of men of whom Washington was the chief. They built the ship and prepared its chart for a long and dangerous voyage, and let us hope that those who in the days to come shall be entrusted with their precious work may be as true to the common weal, as unselfish in their country's cause.

It will not, I trust, be considered immodest or inappropriate if I shall say a few words strictly in respect to that class of our profession whom I here so feebly represent. Judges sometimes try other persons, but the Bench itself is always on trial at the bar of public opinion; and never more so than now. There is no brighter or fiercer light than that which shines about a Judge; and there is no one from whom more is expected in respect to honesty and capacity in office, or purity of life. But the standard set is not too high, the test none too severe. And I sub-

mit that while a few may have fallen from time to time, the great number have fairly stood the test and the people are not ashamed.

There is nothing more necessary in a constitutional government, and especially our own, than an honest, capable and fearless Bench. It was never more necessary than now. It is rather expected that in times of public excitement, when the minds and feelings of the people are much aroused, some persons may yield for a time to the pressure of public opinion, whether right or wrong; but it is just as much expected that the waves of popular favor or disfavor should never shake the Bench. There is one thing for the Judge to know and declare, and that is the law. There is but one power to which he should ever yield, and that is an enlightened conscience—a conviction of the right. It is required that he shall be broad as well as honest in his views; that he shall be acquainted with practical affairs, and have an ample knowledge of men and things; that he shall be close in touch with the busy world, and able to understand the conditions and feelings of the people.

I believe the Courts of this country have hitherto enjoyed the confidence of the people in a marked degree. I believe there have been times when the people have relied upon the integrity and conservatism of the Bench as upon nothing else. And I am sure of this—that if such confidence should ever be lost or seriously impaired, it will be the most fatal blow ever inflicted upon free government and republican institutions. One of the richest possessions of a nation or State is an honored and respected judiciary, and no greater praise can any man receive than this—he was a good and capable Judge.

It is not possible for every Judge to be distinguished or renowned. But it is possible for every one to be honest, diligent, faithful and true. Such I am sure have been the Judges in my own State, and yours, in the years that are gone. It is always a delight to recall the names of the

great Judges who have made our reports luminous with their clear and learned expositions of the law. Splendid lawyers they were and men in love with their work for its very self. Their best memorials consist in the high regard with which they are still cherished, and the able opinions that perpetuate their names. They fixed the standard high for the Bench for future years, and it should be the chief concern of those who follow them that such standard may not be lowered, such reputation may not be lost.

Although the country was never more prosperous than now, or more at peace with all the world, still there is a general feeling of apprehension and unrest. The people wonder what the future is to be. It is surprising that in an era of such unexampled prosperity there should be so much foreboding of trouble and distress. False prophets abound, strange opinions are in the air, and the minds of the people are much disturbed. There are those who believe that the Constitution under which we live, and under which the nation has grown marvelously strong, is a worn out and inconvenient thing. Such a thought is a most dangerous one to instill into the minds of the people to-day, and especially the young. The Constitution is the supreme law of the land, and as such is entitled to the highest respect of every citizen. The cure for present evils is not to be found in shaking the confidence of the people in their organic law, but rather in fostering for it a feeling of admiration and pride.

We cannot with any degree of accuracy forecast the future, but it is certain to be in some respects different from the past. Its victories are to be of peace rather than of war. The contest is to be for trade and industrial supremacy everywhere. The so-called imperialistic policy of our Government is no longer a subject for debate. It is no longer an academic question to be discussed, but an actual condition to be bravely and wisely met. Good men and wise

men have widely differed in their judgments as to the policy of such a course, but whether we approve or disapprove makes no difference now. The cables which hitherto bound the Ship of State to the nearer shores have indeed been cut, and she has gone out proudly, and so far successfully, into deeper waters and wider seas. May her contact with other nations be good for them as well as for us, and her influence, wherever felt, be always a blessing and never a curse. May the good ship which flies the stars and stripes be ever freighted with our virtues rather than our vices, and the strong arm of the Government be held out ever to succor and save, and never to injure or destroy.

While we should honor and revere the days that are gone, they are not half so important, after all, as those that are to come. "To the future and not to the past looks true nobility, and finds its blazon in posterity."

This is the age, and the land, of opportunity and achievement. The results already accomplished by American genius, energy, brain and brawn are marvelous indeed. The Old World simply wonders at the growth and development of the New. Commissions are being sent here from time to time to discover the secret of our industrial success—the machinery we use, the instrumentalities we employ. That secret will be found to consist not so much in the machine as in the man who runs it, not so much in the hand as in the brain of those who conceive and those who execute.

It does not yet appear what the future may disclose, but it is certain that the victories and achievements of the past are to be eclipsed by those that are yet to be. While great things happen, let good things be done, and the law be supreme. While the political horizon widens, and the flag we love advances, let us hope the civilization it represents may be the best of all the ages, the admiration of the race.

## THE GENESIS OF BLACKSTONE'S COMMENTARIES AND THEIR PLACE IN LEGAL LITERATURE

Paper read before the Pennsylvania Bar Association  
June 29, 1910

By HON. HAMPTON L. CARSON, of Philadelphia

*Mr. President and Fellow Members of the Pennsylvania State Bar Association:*

I invite your attention this evening to a consideration of *The Genesis of Blackstone's Commentaries and Their Place in Legal Literature*, and, at the close of the address, will exhibit to you my collection of Blackstoniana, consisting of books, portraits, original letters and documents, including the original of Blackstone's Commission as Judge, his Patent of Precedence as King's Counsel, two writs of summons to attend meetings of the Privy Council, a part of his notes for the Third Book of the Commentaries, his book plate in a volume once owned by him, and other curious matter, supplemented by rare editions, autographs, and portraits of the most famous of his predecessors.

Before proceeding to the main task let me sketch in outline the career and character of our author.

William Blackstone, whose name for the past one hundred and forty years has been more familiar to the lips of lawyers than that of any other legal writer, was born in Cheapside, London, on the 10th of July, 1723. His grandfather was a well-known apothecary in Newgate Street, whose ancestors of the same name had been well known in the Southwest of England, near Salisbury. He was the fourth and posthumous son of Charles Blackstone, a respectable silk mercer. His mother, whose death while he was still a child made him a full orphan, was Mary, daughter of Lovelace Bigg, Esq., of Chilton Foliot, in Wiltshire. His education from his earliest years was undertaken by his uncle, Mr. Thomas Bigg, an eminent surgeon of London.



HAMMON, J.

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1. *Chrysomelids* (1000 spp.)

Proceeding to the main task let me sketch in a few words the scope and character of our author.

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HAMPTON L. CARSON





At the age of seven he was put to school at the Charter House; five years later he became a Foundation scholar, his patron being Sir Robert Walpole; three years later, at the age of fifteen, he stood at the head of the school. He distinguished himself in the delivery of an oration in commemoration of Mr. Thomas Sutton, the founder of the school, and as the winner of the Benson prize medal for verses upon Milton. In 1738, he entered Pembroke College, Oxford, and during his seven years in the University devoted himself to the classics, but particularly to the science of architecture, upon which he composed a treatise, which though never published, was much read and admired.

On November 20, 1741, in his nineteenth year, he began his legal studies in the Middle Temple. During four of the five years of his legal novitiate he continued his studies at Oxford, becoming a Fellow of the College of All Souls in November, 1743, and taking his degree of B.C.L. in 1745. It was during this time that he wrote his now well-known verses entitled "The Lawyer's Farewell to his Muse." On the 28th of November, 1746, in his twenty-fourth year, he was called to the Bar. It is interesting to observe the pertinacity of his double course of study, for his close connection with the University during the time that he was in the Temple shaped and determined his subsequent career.

As personal letters contain an unconscious revelation of character I cannot refrain from illustrating his characteristics as a student of law by introducing in this connection a letter *in extenso*, written by him from Arundel Street, under the date of January 28, 1745.

*Dear Sir.*

*You have been so kind as to tell me, yt a Line now & then from me would not be unacceptable to you. 'Tis this that has drawn upon you ye present trouble for wch you have Nobody but yourself to blame.*

*I have been in Town about ten Days, & am tolerably well settled in my new Habitation (wch. is at Mr. Stokes's A Linmer*

*in Arundel Street) The People of ye house seem honest, civil, & industrious; and my Lodgings are in themselves chearful, refined, & as every Body tells me, extremely reasonable. Nor do I want opportunities of gallantry (if I have Inclination to improve them) there lodging in ye same House a young Lady of extraordinary Accomplishments & a very ample Fortune; but alas! She has, together with ye Riches, ye Complexion of a Jew. So that she is not like to grow a very formidable Rival to—Cke upon Littleton.*

*Coke I have not yet ventured to attack, but have (according to Ch. J. Reeves's Plan) begun with Littleton only. Two together wd. be too much for a Hercules, but I am in great Hopes of managing them one after ye other. I have stormed one Book of Littleton, & opened my Trenches before ye 2d; & I can with pleasure say I have met with no Difficulty of Consequence; There is one thing indeed & but one, I do not understand in ye first Book, wch. is a mere matter of speculation: & is in short this, The Donces in Frank Marriage shall do no service (but that of fealty) to ye Donor or his Heirs till ye 4th Degree be past, Of wch 4 Degrees ye Donce shall be said to be ye first. S. 20. To prove wch. last Assertion Littleton produces a Writ of Right of Ward, (as you may see pag. 23 C.) Now with me ye Question is, how the Writ wch. he produces proves ye Point he wd have it do, viz. that ye Donee in Frank Marriage is ye first of four Degrees. You will observe that this is a Point of mere Curiosity, Frank Marriage being now out of use. But I don't love to march into an unknown Country without securing every Post behind me: & it is a greater slur upon a General to leave a Slight Place untaken, than one more hard of Access. Besides, in my apprehension, (& I shd be glad to know your opinion of ye matter) ye Learning out of use is as necessary to a Beginner as that of every Day's Practice. There seem in ye modern Law to be so many References to ye ancient Tenures & Services, that a Man who wd. understand ye reasons, ye Grounds, & Original of what is Law at this day must look back to what it was formerly; or Or'wise his learning will be both confused and superficial. I have sometimes thought that ye Common Law, as it stood in Littleton's Days, resembled a regular Edifice: where ye Apartments were properly disposed, leading one into another without confusion, where every part was subservient to ye whole, all uniting in one beautiful Room had its distinct Office allotted to it. But as it is now, swoln, shrunk, curtailed, enlarged, altered & mangled by various & contradictory Statutes &c.; it resembles ye same edifice: with many of its most useful Parts*

*pulled down, with preposterous Additions in other Places, of different Materials & coarse workmanship: according to ye whim, or prejudice, or Private Convenience of ye Builders. By wch. means the Communication of ye Parts is destroyed, and their harmony quite annihilated; & now it remains a huge, irregular Pile, with many noble Apartments, tho' awkwardly put together, and some of them of no visible use at present. But if one desires to know why they were built, to what end or use, how they communicated with ye rest & ye like; he must necessarily carry in his Head ye Model of ye old House, wch. will be ye only Clew to guide him thro' this new Labyrinth.*

*I have trespassed so far on ye Patience, that I am almost afraid to venture any farther. But I happened t'other day upon a case in a Civil Law Book, wch. I should be glad to know how you imagine Chancery wd. decide. A Man dies & leaves his Wife with Child; and by his Will ordains that, if his Wife brought forth a son; ye son shd. have 2 3ds and ye Mother one 3d of ye Estate. If a Daughter, then ye Wife to have 2, & ye Daughter 1 3d. The Wife brought twins, a Boy & a Girl. \*Qu. How shall ye estate be divided. NB We must suppose a jointure, or something, in Bar of Dower.*

*We are quite in ye dark as to intelligence here in Town; You must observe what strange, perplexed, incoherent Accs. ye Gazette affords us. I fear our Loss in Scotland was greater than they care to own. But at ye same time, even Victory must lessen ye number of ye Rebels, while we are continually recruiting. There is a Talk of assessing all personal estates & raising thereby 3 millions. If so, ye assessment must run high.*

*I was sensibly concerned at hearing of Mr. Richmond's Illness; but hope, by not hearing lately anything further, that all is well again. My hearty Goodwishes attend him, & my cousin, who I shd think might take a trip to Town this Spring. My Aunt of Worting will be at Lincolns Inn-Fields about Easter; & probably wd. be glad of a companion to partake of some of ye gay Diversions.*

*Excuse, Sir, this tedious Length, wch I promise never to be guilty of again, & when you have an idle hour, be so good as to think of, Sir*

*Your most obliged humble Servant,*

*W<sup>ill</sup>. Blackstone.*

*Arundel Street*

*Jan. 28, 1745*

After his admission to the Bar he was appointed bursar of his college. Finding the accounts in much confusion he reduced them to lucid order and wrote a dissertation upon bookkeeping. He also arranged the muniments of the college estates, displayed his knowledge of architecture by useful and practical suggestions in the rebuilding of the Codrington Library, and his knowledge of books in the classification of its contents. For these services his college appointed him, in 1749, steward of their manors. The next year he became a Doctor of the Civil Law and published an "Essay on Collateral Consanguinity." He then relapsed into poetry and wrote "Verses on the Death of His Royal Highness, Frederick, late Prince of Wales." This was followed by a letter to the Vice Chancellor of Oxford relative to the management of the Clarendon Press. He also amused himself by annotating Shakespeare, and communicated his notes to Malone, who subsequently to the death of Blackstone published them in his well-known edition of the plays.

In the meantime his progress at the Bar was slow and unremunerative. Having been chosen Recorder of Wallingford, in the County of Berks, he determined to retire to his fellowship and practise only as a provincial counsellor. During the next four years he was engaged in those particular researches and general studies which gradually led him to the conclusion that the lack of instruction in the laws and Constitution of England was a lamentable defect in the scheme of university education. In the year 1753, when he was but thirty years of age "his original plan," as he himself tells us in the Preface to his Commentaries, "took its rise and notwithstanding the novelty of such an attempt and the prejudices usually conceived against any innovation in the established mode of education, he had the satisfaction to find that his endeavors were encouraged and patronized by those both in the University and out of it, whose good opinion and esteem he was principally desirous to obtain."

About this time the Professorship of Civil Law became vacant, and the Solicitor-General, Mr. Murray, afterwards Lord Mansfield, "with a just appreciation of Dr. Blackstone's abilities," strongly recommended him. The Duke of Newcastle, it is said, promised him the place, but not being satisfied, after a short interview, with the candidate's devotion to His Grace's politics, it was given to another. Truly a happy circumstance, for it directed his attention from the Civil to the Common Law. He fell back upon his original plan, and for three years read with marked and immediate success the lectures he had been long preparing. Although his lectures remained in manuscript for a period of twelve years he published, in 1756, "An Analysis of the Laws of England," exhibiting the order and principal divisions of his subject and clearly methodizing its intricacies. In 1758 the Vinerian Professorship of the Common Law in Oxford was established, made possible by the ample benefaction to the University in the sum of £12,000, of Mr. Viner, the author of an elaborate Abridgment of Law and Equity in twenty-four volumes. And thus, as Blackstone tells us in his Preface, there was produced "a regular and public establishment of what the author had privately undertaken \* \* \* and the compiler of the ensuing commentaries had the honour to be elected the first Vinerian Professor." The far-famed lecture on "The Study of Law," which serves as an introduction to the published commentaries, was read at Oxford on October 25, 1758. The next year our author appeared in the triple rôles of lawyer, antiquary and historian, publishing a new and beautiful edition of "The Great Charter and Charter of the Forest," which drew him into an interesting controversy with Dr. Lyttleton, late Dean of Exeter, and then Bishop of Carlisle, as to the authenticity of a curious ancient roll containing both the Great Charter, and that of the Forest, which the Bishop asserted to be an original and which Blackstone contended was but a copy. This was followed by a letter to the Honourable

Daines Barrington, the Editor of the Statutes and one of the old Benchers of the Middle Temple, alluded to by Charles Lamb in his charming essay of that title. The letter described and discussed the peculiarities of an antique seal with some observations on its original, and the two successive controversies which the disuse of it occasioned. In 1761 he became a member of Parliament and sat for Hindon. He now found himself in the possession of a considerable practice, and obtained a Patent of Precedence as King's Counsel, the original of which I shall exhibit to you.

Finding himself burdened with professional work, he appointed a deputy to read his lectures, which led to some controversy, which he silenced by a statement of his rights under the Viner establishment. He then published a treatise on the Law of Descents in Fee Simple, and collected and republished five of his pieces, under the title of Law Tracts, in two volumes, octavo. In 1763 he was appointed Solicitor General to the Queen. This was followed by an offer of the Chief Justiceship of the Common Pleas in Ireland, which he declined. About this time he married Sarah, eldest daughter of James Clitheroe, Esq., of Boston House, Middlesex, by whom he had nine children, seven of whom survived him. Soon after his marriage he was appointed by the Earl of Westmoreland, then Chancellor of the University, principal of New Inn Hall. The next year he resigned this appointment, and also his Vinerian professorship. Finding that imperfect and unauthorized copies of his lectures were in circulation among piratical booksellers, he determined to rewrite them, and the renowned Commentaries, in four volumes, quarto, appeared in 1765-66-68-69, with the following dedication: "To the Queen's Most Excellent Majesty the Following View of the Laws and Constitution of England, the Improvement and Protection of which have distinguished the Reign of Her Majesty's Royal Consort, is with all Gratitude and Humility most respectfully inscribed

by her Dutiful and Most Obedient Servant, William Blackstone."

A well-trained classical scholar with a knack at verse, an architect, a bookkeeper, a student of Shakespeare, a lecturer upon the common law, a doctor of the civil law, an author of tracts requiring close investigations of ancient records, a concise, accurate but brilliant writer, with fine powers of analysis, he brought to this great task an unusual combination of qualities and imparted to legal literature a style and method never before attained and never since equalled.

I might here close this slight biographical sketch, having brought it to the point of the Commentaries to be examined, but for the sake of completeness will add a few particulars. In 1770 the celebrated Mr. Dunning retiring, Blackstone was offered the Solicitor-Generalship, which he declined. In less than a month, on the death of Mr. Justice Clive, he was made a Judge of the Common Pleas, and actually kissed hands on February 9th, but at the request of Mr. Justice Yates, who wished to escape collisions with Lord Mansfield, he consented to take that Judge's place in the King's Bench, and again kissed the King's hands for that Court on the 16th of the same month, when he received the honor of knighthood. His original commission of that date will be one of my exhibits. Four months later, on the death of Yates, he removed into the Common Pleas and held the place until his own death, on February 14, 1780, at the age of fifty-seven. I shall not dwell upon his labors as a judge, nor upon his devotion with John Howard to the improvement of prison discipline, nor upon his work as a reporter. These must be left for an expansion of this paper.

Let us turn to the Genesis of the Commentaries. Many interesting and instructive suggestions are to be derived from a close examination of the *Tracts Chiefly Relating to the Antiquities and Laws of England*, before mentioned as appearing in two volumes, octavo. I prefer, however, the



third edition, printed at Oxford in 1771, as containing additional matter, particularly An Analysis of the Laws of England, which was a key to his lectures, and The Preface to the Sixth Edition of the Analysis, in which he states the origin of his Lectures, and his method of arrangement. The volume, which is a quarto, contains six papers: 1, An Analysis of the Laws of England; 2, An Essay on Collateral Consanguinity; 3, Considerations on Copyholders; 4, Observations on the Oxford Press; 5, Introduction to the Great Charter; 6, Magna Carta, Carta de Foresta, etc. Before attending to the Analysis, which, although the first in the volume, was the last to be written, let us consider the other papers.

In the five papers last above named, all of which—let it be noted—were written and first published *before* the Commentaries were undertaken or even the Analysis prepared, there is abundant evidence, both in the text and in the foot notes of the character and extent of Blackstone's studies of the older authorities, the constant handling of which would make him familiar with their doctrines and impress him with the need of a clear, systematic treatise upon the body of the law. Thus, taken in the order of antiquity of authorship, there are distributed among these five papers three references to the Grand Coustumier of Normandy, four references to Glanvil, twenty references to Bracton, six to Britton, nine to Fleta, three to the Mirror of Justices, three to Lambard's *Archaionomia*, six to Wilkins' *Laws of the Anglo-Saxons*, six to the *Year Books*, five to Littleton, twenty-one to Coke, two to Croke, two to Hale, three to Gilbert on Tenures, two to Wright on Tenures, seven to the *Registrum Brevium*, five to the old *Natura Brevium*, eleven to Fitzherbert's *Abridgment*, four to Brooke's *Abridgment*, thirteen to Rymer's *Foedera* and, what is more significant, as indicating that he actually handled the original court rolls or records, which were not in print, but in manuscript on vellum and only to be found, in the then confused and

scattered state of the records before Lord Langdale's day, by toilsome searching without an index, there are five references to the Charter rolls, five to the Statute rolls, ten to the Close rolls, one to the Fine rolls, fourteen to the Patent rolls, eight to the Red Book of the Exchequer, and also two references to Madox's History of the Exchequer and one to the Dialogue de Scacchario, first printed by Madox, and six to Selden, the antiquarian.

No one familiar with these records and books in the shape and editions as existing in Blackstone's day—especially if he be alive to the vast amount of incidental information to be derived from the touching, seeing and tasting of old books and papers—can doubt, when he examines into the manner in which they were handled by Blackstone in his "Tracts," that our author was not only possessed of persevering industry, discriminating judgment, skill in the arrangement of matter, neatness and precision of statement, but above all, that he was animated by the glow of the historical student. Superimposed as these researches were upon his studies of Coke-Littleton, Plowden and Hale's History of the Common Law, he was persuaded, I had almost said incited, to the preparation of his Lectures.

We are now ready to appreciate what he says in the Preface to his Analysis. In substance it is this: he had observed with concern the total neglect of the study of the laws in the usual education of English gentlemen, and in particular that no attention to such studies had been provided by the Universities. To remedy so just a complaint he was induced, in 1753, to institute and to continue a course of lectures at Oxford, and to render the attempt extensively useful he marked out a plan of the laws of England, "so comprehensive, as that every title might be reduced under some one or other of its general heads, which the student might afterwards pursue to any degree of minuteness; and at the same time so contracted that the gentleman might, with tolerable application, contemplate

and understand the whole." The remainder of his design was to deduce the history and antiquity of the principal branches of law, select and illustrate their fundamental principles and leading rules, explain their utility and reason, and compare them with the laws of nature and of other nations. He found himself obliged to adopt a method in many respects new. The earliest and the most valuable of those who had labored in reducing the laws to a system were Glanvil and Bracton, Britton and the author of *Fleta*, "but these and all others who preceded King Henry the Eighth are so occupied in ancient (he does not say useless) learning, that it had been but an awkward attempt to engraft on their stock the improvements of later ages." He condemned the method of Fitzherbert and Brooke, and the subsequent authors of abridgments as being the least adapted of any to convey the rudiments of a science, because it was that of the alphabet. He regretted that Lord Bacon had purposely avoided any regular order, and on a narrow plan had selected only some distinct and disjointed aphorisms. The Institutes of Sir Edward Coke were unfortunately as deficient in method as they were rich in matter, an infinite treasure of learning being thrown together in a loose and desultory way. Dr. Cowel's attempt to reduce the law of England to the model of Justinian was a forced and unnatural contrivance, and lame in execution. The method of Sir Henry Finch was greatly superior to all that were before extant; his text was weighty, nervous and concise, and his illustrations were apposite, clear and authentic. But, with all these advantages, it was not adapted to modern use, because the abolition of military tenures, and the disuse of real actions had rendered half his book obsolete. Dr. Wood had removed this objection, but had fallen into the contrary extreme. He had modernized Finch's discourse, but left the reader in the dark with regard to the reason and origin of many subsisting laws founded in remote antiquity. In some titles his plan was too contracted;

in others too diffuse. None of these plans, therefore, was satisfactory. "But there were extant the outlines of a still superior method, sketched by a very masterly hand. For, of all the schemes hitherto made public for digesting the laws of England, the most natural and scientific of any, as well as the most comprehensive, appeared to be that of Sir Matthew Hale, in his posthumous analysis of the law. This distribution therefore hath been principally followed: with what variations, the learned reader will easily perceive from the ensuing abstract, and it may be no unprofitable employment for the student to learn by comparing them." He then states that "since those who have gone before him have successively deviated from each other's plan, he hopes to be excused if, in order to adapt some things the better to his own capacity, he frequently departs from them all; having in general rather chosen, by compounding their several schemes, to extract a new method of his own, than implicitly to copy after any."

These considerations gave birth to the Analysis, which exhibits the order and principal divisions of his course, and is only to be considered as a larger syllabus, interspersed with a few definitions and general rules. It would be impracticable to attempt a comparison between the Analyses of Hale and Blackstone upon the plan of parallel columns. Blackstone's debt to Hale is freely admitted by himself, and no one, not even the most ardent Blackstonian, would dispute that which our author has confessed. Indeed, it is apparent upon the most casual examination, but it must be equally apparent to any one who places the two works side by side that Blackstone did much thinking before committing himself to his own final arrangement, and that he frequently shifted sections and subdivisions and rearranged them under headings which he thought to be the more appropriate. As an illustration, Hale in dealing with the Rights of Persons considered not only those of Husband and Wife, Parent and Child, Master and Servant, as in

Blackstone's well-known sequence, but also added a section which he entitled "Concerning Relations Civil," under which he placed Ancestor and Heir, Lord and Tenant, Guardian and Pupil, Lord and Villein. Blackstone added Guardian and Ward to his first book, and shifted Ancestor and Heir to his chapter on Descents, and also shifted Lord and Tenant and Lord and Villein to his Second Book, treating of the Rights of Things, and discussed them in the chapters upon Tenure.

I might multiply samples, but this will suffice.

The main advantage to the student of Blackstone's work over Hale's lies in the Comprehensive Division of the Matter into Four Books, and the Tabulated Exhibition of the Contents of Each Book in a manner both logical and artistic. Hale's reduction was into fifty-four sections, with no tabulated display. Blackstone's arrangement appeals to the eye as well as to the mind, and the manner in which the detail is carried out indicates analytical powers of an unusual order. Anyone familiar with the difficulties of preparing charts of complicated matters will perceive this. But the most striking difference between the plans consists in the addition of the Fourth Book on Public Wrongs, a topic not within the plan of either Hale or the Institutes of Justinian. It is joined to the other parts with such ingenuity that it seems a part of the original plan, and the same analytical skill is displayed in exhibiting its subdivisions.

The Analysis was prepared to aid the students who attended the Lectures; and the Commentaries, as I have stated in the biographical part of this paper, were based upon the lectures and published as a means of protecting their author against literary piracy.

Such was the genesis of the Commentaries. I now turn to their Place and Value in Legal Literature. Their appearance produced what may be properly called a sensation.

Sir William Jones declared: "His Commentaries are the most correct and beautiful outline that ever was exhibited of any human science; but they alone will no more form a lawyer than a general map of the world, how accurately and elegantly soever it may be delineated, will make a geographer." Lord Mansfield declared that he was now no longer at a loss for a book to recommend to students. Charles Yorke, the leading Chancery barrister, the son of the great Earl of Hardwicke, told Dr. Warburton that if the Commentaries had been published when he began the study of law, it would have saved him reading of twelve hours in the day. Even Bentham, his most formidable antagonist, wrote of him as "an author whose works have had, beyond comparison, a more extensive circulation, have obtained a greater share of esteem, of applause, and consequently of influence (and that by a title on many grounds so indisputable), than any other writer who on that subject has ever yet appeared. \* \* \* He it is, in short, who first of all institutional writers, has taught jurisprudence to speak the language of the scholar and the gentleman." And an unknown writer has declared that "If Dr. Johnson had a right to pride himself upon the completion of his great Dictionary, that singly he had executed a great task, which, in other countries, was deemed sufficient to claim the attention of whole academies, the English may with equal justice point to Blackstone, as having in like manner reduced our law to a systematic and homogeneous whole, and performed that alone, which elsewhere has repeatedly been committed to a commission of learned men."

I need not multiply words of praise; they would take, even if carefully culled, more than an hour to read. We are more concerned with the attacks. With those of Joseph Priestley, the Dissenter, and the rancor of Junius, we have, as lawyers, no concern, although Blackstone saw fit to reply to them. Old black-letter lawyers greeted the work with

sneers and censure, and even Mr. Hargrave, the editor of Coke-Littleton, is reputed to have said that the book was obnoxious to the charge that it was intelligible, and that any lawyer who wrote so clearly was an enemy to his profession.

One of the severest and most persistent of the charges leveled at Blackstone by his critics, particularly by Bentham and those of his school, is his optimism; that he saw nothing in existing law which called for change, and that he was a blind defender, if not a rank apologist, of the most palpable absurdities and enormities. In this, however, he was a representative of his age. It is well to remember that things which appear to us as absurd or enormous were not so regarded by Blackstone's contemporaries. Bentham, his most formidable assailant, was twenty-five years younger than he, and introduced a new era after fifty years of warfare. I may add what is well known to every student of legal history, that while many laws were antiquated and the Statute Book defaced by many enactments condemned by the humane sentiments of later times, yet the law itself was more severe in theory than it was in practice, and that the benefit of clergy and the commutation of capital punishment for imprisonment or deportation tempered severity with mildness; while the numerous technical objections to indictments, which were sustained, mitigated the rigors of justice. I cannot, within my present limits enter upon the proof of this. But I commend to your attention the results of Mr. A. V. Dicey's recent remarkable studies, published in 1905, in his profound work entitled *Law and Public Opinion in England during the Nineteenth Century*. Mr. Dicey speaks of the State of Opinion between 1760 and 1830 as "the period of old Toryism or Legislative Quiescence." He says "the changelessness of the law," during this time, "is directly traceable to the condition of opinion. The thirty years from 1760 to 1790 may well be termed, as regards their spirit, the age of

Blackstone. English Society was divided by violent though superficial political conflicts, but the tone of the whole time, in spite of the blow dealt to English prestige by the successful revolt of the Thirteen Colonies, was, after all, a feeling of contentment with, and patriotic pride in, the greatness of England and the political and social results of the Revolution Settlement. Of this sentiment Blackstone was the typical representative." He then quotes the well-known panegyric on the English Constitution with which Blackstone closes his Commentaries, and declares: "These words sum up the whole spirit of the Commentaries; they express the sentiment not of an individual, but of an era." He then quotes Burke, who, he says, "had always in constitutional matters leaned strongly towards historical conservatism." He points out that Paley, a "hard-headed and honest moralist \* \* \* was at bottom as much a defender of the existing state of things as was Blackstone." Blackstone, Burke, and Paley were, it may be fairly asserted, "political philosophers who represent the speculative views of their time." After further discussion, Mr. Dicey asserts that "it is easy to discover an explanation or justification of the optimism represented by Blackstone," and, in commenting upon Dr. Arnold's views, he forcibly declares "never did the convictions of a preacher more completely misrepresent an age which he knew only by reading and tradition. The Blackstonian era was a period of national strength and of most reasonable national satisfaction." His conclusion is that "the optimism, which may well be called Blackstonianism, was then the natural tone of the age of Blackstone." Besides, it must not be overlooked that Blackstone was nearer in point of time to the Great English Revolution than we of to-day are to our American Revolution, and that it was as natural for him to write in praise of the new Constitutional order as for John Fiske to write of the days of 1776 and 1787.



But there is a personal side to it. Judge Dillon has said: "It is natural for some minds to revere the past, to accept the present, and consciously, or unconsciously, to resist agitation and change. It is equally natural for other minds to question the wisdom of the past, to refuse to accept its lessons or results as final, to be discontented with them, and to welcome novelty as the means of effecting improvement. This mental classification obtains in the profession of the law. \* \* \* Blackstone and Bentham stood as types or exponents of conservative and radical forces." Sir Frederick Pollock says that "Blackstone caught and expressed the spirit of his time with consummate skill, but he caught it only just in time. Hardly was his ink dry when Bentham sounded a blast that rudely disturbed the supposed finality of the Common Law." John Stuart Mill, in an essay upon Bentham, has gone still deeper and pointed out that, "all ages of English history have given one another rendezvous in English law; their several products may be seen all together, not interfused, but heaped one upon another, as many different ages of the earth may be read in some perpendicular section of its surface, the deposits of each successive period not substituted, but superimposed on those of the preceding. And in the world of law, no less than in the physical world, every commotion and conflict of the elements has left its mark behind in some break or irregularity of the strata." I submit that these considerations explain, if they do not excuse the optimism of Blackstone, a teacher, whose main purpose was to set forth the law as it then existed, and, under the glow and example of his mighty predecessors, Fortescue, Coke, and Hale, writing in letters writ large *De Laudibus Legum Angliæ*.

Again, Blackstone's definition of law has been assailed, most forcibly by Austin, who was the disciple of Bentham. But Blackstone's definition is substantially that of Hobbes, one branch of which Pollock thinks profound. Austin, who commented on Blackstone so severely, although sustained

by Markby, was himself commented on in sixteen chapters by Professor Clark, of Cambridge University. Professor Holland, in his work on Jurisprudence, and Judge Dillon, in his recent Yale Lectures, dissent from both Blackstone and Austin, while the late James C. Carter, Esq., before the American Bar Association in 1896, stated with clearness and force the argument against the Austinian conception and definition. I refer to this conflict of views to emphasize the point that Blackstone's definition is not so easily disposed of as Austin in his self-sufficiency seemed to think.

Once more, Austin attacked the method of Blackstone, and sneered at his analysis, and speaks of "distortions" and "travesties" and "impenetrable obscurities," and of "turning elliptical and dubious language into arrant jargon," and asserts that he has "misled" all English lawyers since his time. This lead has been followed by Mr. J. G. Phillimore and others. To discuss these objections properly would require a separate paper. Austin, it must be remembered, was a civilian with no adequate conception of the history or character of the Common Law. He aimed at reducing every branch of the law to the scientific precision of a Code, and, enamored of Roman models, he ignored the pregnant truth so well stated by Pollock and Maitland: that "the matter of legal science is not an ideal result of ethical or political analysis; it is the actual result of facts of human nature and history." Austin and his school never gave sufficient weight to the historical facts that English law while largely Teutonic in its origin, became insular in its scope; that it grew irregularly during many centuries, resting largely in custom, partly in legislation, partly in treatises such as Bracton, Littleton, Coke and others, but mainly in the decisions of Courts, and had never been reduced to formulated rules or scientific arrangement.

A strong exposition of the features of difference and of similarity between the classifications of the Common and the Civil Law is given by Professor Hammond in his

Introduction to Sandar's Justinian, in which he compares minutely the classical distribution of the civil law and Blackstone's classification and arrangement, based partly upon Hale's, as we have seen; a discussion which attracted the attention and elicited the commendation of Sir Henry Maine, who declared it to be the best defence of Blackstone he had seen. Professor Hammond was a scholar of such eminence, and so thoroughly a special student of Blackstone that his views are not only weighty, but would probably convince most readers that he had given more temperate and careful consideration to both systems than the majority of those who write with the heat of zealots. In the first place he makes it plain that Sir Matthew Hale was more of a civilian than Austin and his school has been willing to concede, and next, that Blackstone's acquaintance with the civil law has been grossly underrated. In the next place he shows that Blackstone did not follow Hale or even Justinian slavishly; that he made important changes in the methods of both; and that his changes were intelligent and, at times, original. He sums up with this impressive statement: "The student of the common law, who wishes to comprehend that law is a science, can hardly find better employment than to work out the very rough and imperfect sketch here given into its details. It will prove to him that Blackstone and his system are entitled to much more respect than they have received of late from those who have taken the scientific aspect of the common law into their special keeping. But this is a small matter, comparatively speaking. The task will also show him that *all* law, properly studied, is one system, one science, and that no man has ever done anything of real value to the grand edifice, unless, like Blackstone, he was willing to follow the plans of the Great Architect, revealed in history, and lay his stone in the courses prepared for it by preceding generations."

Another attack consists of a charge that he did not know the real value or worthlessness of his authorities. In

testing Blackstone by the modern lights of antiquarian research it does not seem to me to be fair to assume that he ought to have known what is now known to the readers of the learnedly edited publications of the Selden Society. When he found, for instance, that Bradshawe, the Attorney General, as far back as A. D. 1550, in *Fogasse's Case* (1 Plowden, page 8) cited the Mirror of Justices as an authority for the guidance of the Court, and that later, Lord Coke, in the Prefaces to his Ninth and Tenth Volumes of Reports, repeatedly declared that "in this ancient Mirror" you may "perfectly and truly discern," or "clearly discern" "the whole body of the Common Laws of England," how can anyone justly blame Blackstone for not anticipating the caution of the historian Reeve, or the scepticism of Sir Francis Palgrave, the disgust of Pollock and Maitland, or the deliberate theory of Maitland that the Mirror was not only apocryphal, but a deliberate imposture, being full of fables and falsehoods. If Blackstone was deceived at the age of forty-two in A. D. 1765, what excuse is there for Lord Chief Justice Tindal, in 1840, in the case *In re Sergeants at law* (6 Bingham's N. C., 187) declaring that the Mirror was "a work of great authority, and of the earliest, though uncertain date?" Or how explain how Finlason, the editor of Reeves' History of the English Law, in an elaborate note published in 1869, more than one hundred years later than Blackstone's First Edition, wrote of the Mirror that "on the whole, there is no book in the law of greater use and value to a legal historian?" Surely, in the midst of this clash, while the critic of Blackstone may agree with Maitland in the final view, yet he should pause long before asserting that Blackstone had no real knowledge of our legal classics. An age which waited until Professor Vinogradoff, and he a Russian, in 1887 had discovered the original Note Book of Bracton, and proved that it was the basis of his great work—a thing until then undreamed of by all the

diggers among English records—may well be modest in an assertion of Blackstone's slender bibliographical knowledge.

In fact, too much is exacted of Blackstone. His Commentaries, based on lectures designed for academic instruction, have been assailed as if they ought to have met all the requirements of dissenters, statesmen, politicians, radicals, historians, civilians, bibliophiles and specialists, as well as the assaults of time. Lawyers certainly will admit that no other legal work ever written could stand such exaction, nay they will go further, and admit that of no other book of which they have knowledge have such exactions been made. The very fact that so much is expected of him, and by such diverse critics, is a patent and substantial proof of his transcendent merit. Not even Coke and Hale, and those exponents of the Civil Law, Papinian and Ulpian, can escape. Critics, yes; "each day a critic," but before we "trust in critics" let us remember that Sir Thomas More long ago told us that there are never men lacking who would teach Hannibal the Art of War.

We all have often asked ourselves what are the merits of Blackstone's Commentaries, and what is the real service to the Profession which the author performed?

The answer may be secured in two ways—first by reading and studying his work, and next by examining his raw materials. Without both of these processes, the answer must be incomplete, yet the latter is seldom attempted. Take the first. The work consists of four books of 473, 520, 455 and 426 pages, respectively, with short appendices. I am speaking of the First English Edition—1765-66-68-69. It is no great task to read it, and a month will amply suffice for the most careful perusal. The first impression, I take it, will be—especially if you first examine, as you should do, the Table of Contents and Chapter Headings, aided by his own analysis—that here you have a comprehensive and General Chart of Public and Private Law, civil and criminal; a general map in outline, so to speak, of the domain of Eng-

lish law, and exhibiting the relationship to each other of the main divisions. Next you will be impressed by his unusual analytical power and skill. He divides and subdivides and redivides a subject with logical exactness, and his chapters and their sections are like the working drawings of an architect. Then you will be impressed with the brevity, the precision, and the clearness of his definitions, supported by well-chosen illustrations, and concise expositions of principles, and finally, you will close the work with the assertion, this was not a hard book to read, on the contrary it was delightful—the style is superior to that of any other law book ever written. You sum up then by saying: Here is a master-draughtsman of a legal chart—who knows the sweep and indentations of the coast lines—their latitude and longitude; who has marked off the various divisions and subdivisions with relative accuracy; who has a due sense of proportion; who has filled up the central spaces with accurate and striking descriptions of what is peculiar to each zone; whose illustrations are well selected, and whose method of presentation is pictorial. The work leaves a definite and well-rounded picture in the mind. It is not a digest, it is not an abridgment, it is not a series of special essays, it is not a chain of quotations, it is not a discussion of cases; it is an original work, well planned, well executed, with the materials thoroughly fused and welded into a compact, harmonious whole, as a Statement of General Principles.

You give the work a second reading, and then you turn to the critics and you become conscious of certain defects, omissions, anachronisms, and obsolete law. Except in the last chapter of the last book, there is no attempt to give a history of the law; there is no attempt to describe the system of equity jurisprudence; the space devoted to corporations and to contracts is insignificant and disappointing; the law of torts is but glanced at; two-thirds of the first book is inapplicable to this country—the whole of the sci-

ence of special pleading is obsolete; the old real actions are no longer in use: there is no opening to view of commercial law in the true sense, there is nothing about the rules of evidence, and finally after having thus mentally consigned two-thirds of his matter to the corner of the practically useless, you finally discover that his method is not scientific, that his conception of jurisprudence is faulty, that even his famous definition of law is not profound, and that the spirit pervading his work is one of blind admiration of the system which he describes.

Have you done him justice? Stop a moment, you are testing him by the light of later knowledge; from the vantage ground of recent developments, and wider explorations by specialists.

Apply now the second test; and unless you do, I assert unhesitatingly that you cannot begin to understand what he did, or how well he did it. Examine his raw material. Take the first edition. Here you do not have the glosses of his editors, who have overlaid and twisted his work out of its original shape, until it resembles Sir John Cutler's *silk* stockings, from which much silk has been displaced by darnings of worsted, but you have his own first notes and references to authorities as he consulted and interpreted them. View him amid his own environment and confine your attention to the law as it was in his day.

To judge of Columbus as a mariner, or Galileo as an astronomer, you must contrast them with their predecessors, and measure them by the standards of their contemporaries. Pile up on fifty tables in a long hall the books from which Blackstone drew his materials: The *Treatises* of Glanvil, Bracton, Britton, Fleta—the Mirror of Justices, Fortescue's *De Laudibus Legum Angliae*, Hengham's *Summa Magna* and *Summa Parva*, Littleton's *Tenures*, Wright's *Tenures*, Doctor and Student, Perkins' *Profitable Booke*, *et id omne genus*; the *Abridgments* of Fitzherbert, Brooke, Staunforde, Statham, Rolle, Viner. Comyn, and Bacon; the *En-*

*tries* of Lilly, Rastall, Levinz and Brown; the *Reports* in folio from Ayleyn and Dyer all through the alphabet, to Vaughan and Vernon, more than two hundred in number; "stout, honest old fellows in their leathern jackets," accompanied by "a flying squadron of thin reports;" the Year Books, Coke's Institutes, Plowden's Commentaries, Finch's Law and Wood's Institute; the *Histories* of Sir Matthew Hale and Madox's Exchequer; the *Works* of the antiquaries—Dugdale, Selden, Spelman and Camden; the *Statutes* at large, edited by Rastall, Pelton, Sergeant Hawkins, Ruffhead and Runnington; the *Dictionaries* of Blount, Cowell, Jacob, Kelham, Spelman's Glossary and *Les Termes de la Ley*; the *Special Readings* and Moots on Statutes—such as those of Magna Charta, Westminster, Uses, Habeas Corpus and the Act of Settlement; the *Special Aids to Practice* in the *Natura Brevium*, *Novae Narrationes* and *Regula Placitandi*—*State Trials* in stately folios—these, and many others, constituted the mass—*ingens moles*—with which Blackstone, while still in his thirties, labored for years. Of course he had guides through the wilderness; no traveler, however renowned, has lost in reputation because he had the good sense to consult or even to follow natives familiar with the way. He was profoundly affected by what had been done by the four greatest of his predecessors, Bracton, Littleton, Coke and Hale, whose labors stretched over a period from the reign of Henry III to the days of Cromwell—from A. D. 1250 to 1675. From Bracton he drew ample knowledge of the system perfected by the Anglo-Norman Kings, from Littleton the very essence of feudalism; from Coke the most varied, though ill-assorted, learning—the quarry and the gravel pit of the Common law,—and from Hale he undoubtedly derived the outline or skeleton of his analytical arrangement. But nothing which any one or all of these masters had done, approached his own work in comprehensiveness, thoroughness, arrangement, or beauty. Bracton,—although a large folio of seven hun-



dred pages of the closest type, and in its modern dress expanded to six thick volumes—breaks off in the middle of a description of real actions—*hiatus valde deflendus*. Littleton deals only with the subject of Tenures; Coke's vast Commentary strays off without system or order, while Hale's History is but an unfinished sketch. But he did not content himself with these, he sought the fountains and explored tributaries, and from the roaring and turbid mass tumbling through the centuries, carrying down Teutonic customs, Saxon dooms, Norman grafts, Plantagenet Statutes, Roman philosophy, canon and ecclesiastical influences worked into the final stream of the Common Law as diked and dammed by hard-headed and resolute English judges, he distilled a limpid fluid which could be quaffed without disgust. The skill with which he precipitated the sediment, and got rid of the nauseating filth, was only equalled by the mental power with which he compressed so huge a bulk into four small quartos.

This then was his work—transcendent in its results as well as marvellous in its beauty. It must always be reckoned with by any student of the historical development of the law. Remember that we of to-day have the benefit of the labors of a host of scholars in fields of criticism and discovery which were not dreamed of in his day. We have the histories of Reeve, Crabbe, Pollock and Maitland, Dean and Holdsworth. We have the publications of the Record Commissioners, the Rolls Commissioners, the Parliamentary Commissioners, the Selden Society, edited by experts. We have translations with learned notes of the Year Books, Glanvil, Bracton, Britton and Littleton. We have the result of the labors of Thorpe, Stubbs, and Maitland in unearthing charters, rolls and pleas by the thousands. We have the studies of the great Germans, Brunner, Liebermann, Phillips, Güterhock and Gneist, who have thrown themselves upon Anglo-Saxon and Anglo-Norman times. We have the lives of Judges written from original

material, long unknown, by such biographers as Foss, Townsend, Roscoe and Manson. We have the discovery recently made by the Professor of History in the University of Moscow, Professor Vinogradoff—of the actual manuscript of Bracton's Note Book, which he made directly from the rolls of the itinerant Judges of Henry III, and used in the composition of his Treatise. We have the benefit of the enlightened and persistent labor of the American scholars, Wallace, Bigelow, Holmes, Thayer and Coxe—two of them Philadelphians, and three of them Bostonians. We live in an age which has witnessed the results of the tremendous battering ram of Bentham upon the inconsistencies, follies and narrowness of the Common Law of Blackstone's day which was followed by the labors of Austin, Brougham, Scarlett, Romilly, Campbell, Cairns, Hatherly and Halsbury.

In the pride of our superior knowledge we are prone to sympathize with the caustic remarks of Sir Roland Knyvet Wilson, who, in his history of Modern English Law says (page 134): "The problem to be solved was this. Given a system which to discuss is to condemn, but which no one has any inducement to examine, except those who have a sinister interest in maintaining it; given a lay public, the only reading part of which is the leisured and luxurious class, who, for the most part, read only what pleases them and flatters their prejudices; how to force on a discussion? The hope of the reformer must be that the idol-worshippers may be induced by some hierophant to put such confidence in his skillful daubing and dressing of their idol as to parade it in public and follow it about with acclamations, in which case an impression may possibly be produced by stepping forward to strip off its disguises and lay bare its deformities. Just such an hierophant was Blackstone. In the course of a life which had been divided between the society of an Oxford College and practice as a barrister, he had acquired a considerable store of miscellaneous erudition, a mastery of elegant language, and

ideas in some points of really enlarged benevolence, together with a perfectly marvellous faculty of putting plausible glosses on ugly facts, sometimes for making words supply the want of facts of any kind, and for flattering or coinciding with the characteristic weaknesses of the society among which he moved. It was the fruit which might naturally have been expected from a system of university education which began with perjury, which offered its chief prizes for exercises in adulation, which systematically repressed every movement towards independent inquiry, and while subordinating substance to ornament, ended by doing almost as little for the latter as for the former.

"The lectures so delivered accomplished their object, attracting what for Oxford in those days was a good attendance, receiving a flattering notice from the Prince of Wales, and being largely read when published as 'Commentaries' by people who had never looked inside a law book before. They have continued to form the groundwork of nearly every comprehensive text-book to this day. The author, whose practice had hitherto been small, rose rapidly in the estimation of his contemporaries, and found himself, after no long interval, first a member of Parliament, and then a Judge."

As against this, we have the deliberate remarks of Professor Brunner, of the University of Berlin, writing in 1888, upon "The Sources of the Law of England." He says:

"The literature of English jurisprudence entered a new stadium with the *Commentaries on the Laws of England* by Sir William Blackstone. They are not a mere commentary upon English Law, but are rather a systematic exposition of it. In his arrangement he followed Sir Matthew Hale, and the parts on Public Right betray the influence of Montesquieu. The first volume treats of 'The Rights of Persons;' the Second Volume treats of 'The Rights of Things' (including Obligations); the Third Volume treats

of 'Private Wrongs' (of a Civil kind) ; and the Fourth Volume treats of 'Public Wrongs' (Crimes, Penalties, and Criminal Process). The other subjects of the legal system—Political Right, Ecclesiastical Right, and Judicial Right—are not worked in the happiest way into this scheme. The first edition of the 'Commentaries' appeared in 1765-1769, and Blackstone himself made little alteration in the later editions. The clearness and lucidity of his exposition, the scientific thoroughness of his mode of treatment, and the avoidance of all cumbrous erudition as well as his intellectual control of the extensive material, have procured for the work a world-wide reputation. Blackstone did not write specially for advocates, but rather for the educated public generally. In consequence of this, he was the first who succeeded in lifting the English Jurisprudence out of its isolation, and putting it upon the level of general culture. The historian of law may, indeed, find his historical surveys sometimes shallow and erroneous, from the present standpoint of his science; and the jurist, who has been trained in the school of the Roman Law, will seek for strict systematization in vain. And yet, it may be boldly asserted that none of the modern Systems of Law can show such a complete and rounded exposition, on the whole, as the English system possess in Blackstone. To foreigners he has, on this account, become the representative of the English Jurisprudence. It is mainly from him that the knowledge of English Law has been drawn on the Continent." I have ascertained that Blackstone has been translated into German, French, Italian and Russian.

And by us in America, it must not be forgotten that we owe a debt to Blackstone which is not simply sentimental and historical, but substantial. The first American edition of the Commentaries was printed by Robert Bell in Philadelphia, in 1771—six years after its first appearance in England, and five years before our Revolution. The boldness of the publisher and the extent of the sales appear in the prospectus

and subscription lists, which I shall exhibit to you. This was followed by the Worcester Edition in Massachusetts. For one hundred and forty years the great judges and lawyers of our republic have drawn their earliest inspiration and knowledge from his pages. Tucker in Virginia, Wendell in New York, Sharswood, Lewis, and Brown in Pennsylvania, Cooley in Michigan, and Hammond in Iowa, have given us special editions, to say nothing of the numerous reprints of the English Editions, and the English Editions themselves which have found their way to our shelves. In crowded cities, in prairie villages, in mountain hamlets, in the depths of the forests, and by the shores of the Great Lakes, or on the banks of our teeming rivers, the great Commentator has been omnipresent. Sir Frederick Pollock, in one of his most striking passages, has declared that the English Common Law had a new birth upon this vast Continent through the appearance of this single work coeval with our Revolution—a work fitted to expound and carry the legal system of the Motherland. In nine hundred years but six names appear as the real Masters in authorship of the English law—Glanvil, Bracton, Littleton, Coke, Hale, and Blackstone.

Surely Blackstone might have slightly paraphrased the Epilogue of Coke to his Second Institutes and written without vanity: "Thus have we by the mercifull goodnesse of Almighty God brought these Commentaries (a large and laborious work) containing an exposition of the Common Law, Magna Charta and many other ancient and later matters to an end; wherein we could not follow or be guided by any other for that never any (that we have ever seen or heard of) have enterprised to publish the like in this kind; and therefore if the piercing eyes of the learned shall find out error herein, we are not without some kind of excuse. And we desire them to amend and correct those errors, according to the true sense of the law, for the which we shall not only give them thanks, but subscribe to the truth, and take

it as some recompense for those our manifold and painful labours herein, which we from the beginning have undertaken for the general good and profit of the whole realme."

Time has his victims, and with ruthless hands plucks many from their pedestals. But Time also has his chaplets with which he crowns a chosen few. Surely it is not too much to assert that among the Law's immortals will be found the name of William Blackstone.

## APPENDIX

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Original Letter in the handwriting of Sir William Blackstone, dated 14, February, 1762, giving an opinion as counsel for the College of All Souls.

Original Letter in the handwriting of Sir William Blackstone, dated 20th January, 1767, relating to his gout.

Original Letter in the handwriting of Sir William Blackstone, dated 11th January, 1778, relating to his portrait by Gainsborough.

Original Patent of Precedence of Sir William Blackstone "to sit and practice at the bar next after our Council learned in the law," dated 6th May, 1661. "By the King himself." Great Seal attached.

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Original summons addressed to Sir William Blackstone to attend a meeting of the Privy Council, dated 16th day of February, 1770. Privy Seal attached.

Original Summons addressed to Sir William Blackstone to attend meeting of the Privy Council, dated 13th day of November, 1771. Privy Seal attached.

#### PORTRAITS

Thirty-four portraits of Blackstone.

Seven portraits of Littleton.

Sixteen portraits of Lord Coke.

One portrait of Sir John Fortescue.

Twenty-four portraits of Sir Matthew Hale.

Six portraits of Sir John Selden.

Four portraits of Sir Henry Spelman.

One portrait of Thomas Wood, Esq.

All of the foregoing exhibits are in the possession and ownership of Hampton L. Carson, Philadelphia, Pa.

June, 1910.

## THE CONSTRUCTIVE GENIUS OF DAVID LLOYD IN EARLY COLONIAL PENNSYLVANIA LEG- ISLATION AND JURISPRUDENCE—1686 to 1731

Paper read before the Pennsylvania Bar Association  
June 30, 1910

By H. FRANK ESHLEMAN, Esq., of Lancaster

Among the first fathers of Pennsylvania, there were figures whose strength, nobility and majesty of character make modern men marvel. Greatest of these was the peerless Penn, in lone pre-éminence. But there were also Joseph Growden, Richard Hayes, Isaac Norris, Caleb Pusey, Edward Shippen, the elder, and others, fine-grained and graceful as the elm—there were also William Biles, Richard Hill, Andrew Hamilton, the elder, Jeremiah Langhorne, Francis Rawle, the elder, and others, steadfast, patient and enduring as the stately evergreen, solemn cedar—there were also Andrew Hamilton, the younger, Thomas Lloyd, the lovable Samuel Preston, Thomas Story, William Trent, Robert Turner, John Wright and James Logan, the faithful, loyal, honest, reliable as the sturdy, majestic oak,—and rising above his fellows, in solitary stateliness, there stood David Lloyd, rugged, defiant, gnarled and knotty, as the unwedgeable hickory.

David Lloyd was born in 1656, in Northern Wales, among the Montgomery County Mountains (M. H. C., 81).\* He came of ancient and honorable stock—the family lineage ran back to the houses of kings, and named a line of ancestors beyond the dark ages. Two hundred years before his birth the sturdy ancestor owned the great North Wales estate of Dalabran, and, about 50 years later the head of the "House," Ivan the Handsome, assumed the surname

\*See explanations at the end of this address.



H. FRAZER

# THE SELECTIVE GENIUS OF DAVID LLOYD OF COLONIAL PENNSYLVANIA LEGAL AND JURISPRUDENCE -1686 to 1711

Before the Pennsylvania Bar Association  
June 3, 1916

FRANK L. SOLEMAN, Esq., of Lancaster

In the first years of Pennsylvania, there were  
a few strong, manly and manly style of character  
men, men of nerve. The best of these was the poet  
of the law, the judge. But there were also Joseph  
Sturges, Richard B. Jones, Isaac Norton, Cold-Pusey,  
Stephen H. Jones, and others, fine grained and  
strong. There were also William Biles, Richard  
Andrew H. Jones, the chief, Jeremiah Laughlin,  
and others, steadfast, patient and  
strong as the evergreen, solemn cedar—there were  
Andrew Jones, the younger, Thomas Lloyd, the  
chief, Stephen H. Jones, Thomas Story, William Trent,  
and John Wright and James Logan—the faithful,  
able as the sturdy, majestic oak—a  
few fellows, in so many statehood, there stood  
strong, defiant, gnarled and knotty, as the  
oak.

He was born in 1656 in Northern Wales  
in the City of Merioneth (M. H. C., 81) —  
out a strong stock—the family line  
of the Kings, and named a line of  
the dark ages. Two hundred years before  
his ancestor owned the great North Wales  
and, about 50 years later the head of  
the Handsome, assumed the surname

of this address



**H. FRANK ESHLEMAN**



"Lloyd." The maternal side brought royalty into the Lloyds. The "Fair Maid of Kent," granddaughter of Edward I, married Edward, Prince of Wales, known as the Black Prince; from them descended the royal maiden who married an ancestral Lloyd and became the mother of the modern scions of the race (K. P. C., 7).

Though he came from kings, his spirit was essentially republican. It is said he was a captain in Cromwell's army (1 P. & L., 155); but this cannot be. He was only two years old when Cromwell died. But the great principle of all his known political career was his trust in the common people and in the people's representatives—the lower house of Parliament in England and the Assembly in Pennsylvania. And the same spirit (1 Macaulay, 87) was the very soul of the Civil war of 1642 and of the Revolution of 1688, viz., that the supreme control over the executive administration should be torn from the Crown and be lodged in Parliament. He disliked kings. To him they were either nominal figures or tyrants. Macaulay says (4 Hist. of Eng., 125) he turned Jacobite and tried to inflame the English people to depose King William. He did this, not because he loved James, but because he disdained the proclaimed King and hated him, since he was a foreign, imported king. If he did love James II, he loved him, not as abdicated or injured king, but as a friend of the Quakers, who had done for Penn, for him and for all the Quakers, favors which made all England green with envy (1 Macaulay, 393). In his heart of hearts he was Whig or Republican and felt no king was needed but a nominal king. In his lineage he was Welsh—of that hardy race that had defied Cæsar, and other foreign powers for centuries, and he held in his breast the ancient pride and hated accordingly a foreign king. In his religion he was proselyte Quaker, and could not endure any office or exaltation that deified mere man into king, and gave him sovereignty and majesty—attributes belonging alone to God. His whole life, purpose and being were so



consistently against concentrated power, that one cannot imagine him ever being in favor of the prerogative and dominance for which King James had always stood and which he lost in the Revolution as well as his throne.

No portrait of David Lloyd is known to exist; but a study of his temperament, his wiry virility, his splenetic, stubborn refusal to yield to any foe, his agility of attack or recoil, inclines us to give him a lank and angular frame and tempts us to put upon his shoulders the head and face of John Dickinson or Andrew Jackson, rather than the countenance of John Adams or George Washington. He was politician, diplomat, and could be autocrat. While his attack upon his enemies and opponents was fierce and relentless, he won his adherents by suasion and that great faculty of "leading men" and "making them his accomplices," of which James Logan sadly complains (1 P. & L., 155n). He almost always carried the entire Assembly with him, during his more than twenty years of service there, but it seems, never dominated them. He was flint and steel in the forum; but in private life he was mild, gentle and generous (1 P. & L., 155), exemplary in his family and neighborhood, treating all about him with humanity, choosing rather to be loved than feared; and diligent in attending meeting for worship (M. H. C., 82).

On the 5th day of August, 1686, this remarkable man suddenly appeared on the political horizon of Pennsylvania, and bounded into the public arena. He did not come as a novice, nor as a protege, nor as a weakling. He came as a man in the maturity of years, in the strength of his tried powers, in the possession of fame won or notoriety incurred, in the troublous times in England preceding the Revolution. Nor did he appear in the province to fill an inferior station. But (like Jove with the thunderbolts in his grasp) he came in strength and dignity the prosecuting head of the department of justice,—Attorney-General of the Province, armed with his commission (1 C., 188).

His entry was royal, his preferments rapid, his honors many and flattering. Beginning with Attorney-General in 1686, he was, the same year, made Clerk of the Philadelphia Courts (1 C., 190); in 1688, Clerk of the Supreme Court (1 C., 245) and Deputy Master of the Rolls (1 C., 245). These four offices he held concurrently some time—one or two of them several years. In 1689 there was added to his political honors Clerk of the Assembly, which he held some years (1 V., 48 and 60).

In 1690 and 1691 he must have spent some time in England and France, because, according to Macaulay (4 Hist. of Eng., 125), who calls him "one of the ablest and most active emissaries, who, at this time were constantly plying between England and France," David Lloyd conveyed to King James at St. Germain, the assurance that Lord Russel, the disaffected head of the British Navy, would on a favorable opportunity, by means of the fleet, restore him to the throne, as the Duke of Albemarle had, in the preceding generation, restored Charles II. For this and other acts against his sovereigns, William and Mary, he (with Penn and many other noble gentlemen) was included in Queen Mary's proclamation of 1690 as one of the supposed conspirators against King William (1 P. & L., 155). However that may be, in September, 1691, he was attending his duties as Clerk of the Supreme Court in Philadelphia (1 C., 386).

In his career from that time onward, he was elected to Assembly in 1693, re-elected in 94 (1 V., 65 and 78), and made Speaker. From 1695 to 1700 he was a member of Provincial Council, when he again defied and insulted the King and was dropped from this exalted post. In 1701 he was in private life, devoting his whole time to the law. From 1702 to 1710, he was again member of the Assembly, most of the time Speaker. The fall of 1710 he was defeated. From 1711 to 1719 he was again in Assembly. From 1719 to 1722 defeated or no candidate. In 1723 again a member. In 1724 again defeated, and from 1725 to 1728 inclusive,

again in Assembly. While a member of Assembly, he also, in 1718, became Chief Justice of the Supreme Court, to which he was repeatedly recommissioned and held the same high office continuously until his death in 1731. He was in public station 45 years and gave to Pennsylvania much of its life, character, vigor and direction, during the first half century of its existence.

*I.—David Lloyd as Attorney-General.*

Very little of Lloyd's work as Attorney-General has come down to us. Only a few cases, in which he prosecuted for the King, are reported, and in only one of them do we get a good, clear view of his legal powers in full play. It is the important case of the King vs. Keith, Bradford and others tried in 1692 (P. P. C., 117). In this case Attorney-General Lloyd by indirection furnished the suggestion which resulted in establishing first in America a great fundamental right belonging to the press and to the publisher,—and which has ever been the great bedrock whereon is built the American liberty of the press,—the right to have the Jury determine the seditious or injurious character of an alleged libelous paper. Lloyd did not *advocate* this right, but he *agitated* it into being by asserting its non-existence.

George Keith seceded from the Quakers, attacked their creed and ridiculed their customs. Many joined his revolt, among whom was William Bradford, the prominent printer. He printed some of the Keithian tirades and also composed and printed some controversial productions, siding with Keith, on his own account. These articles held the Quaker Judges up to ridicule and the heads of the Keithian coterie were prosecuted for libeling the government and weakening, thereby, the hands of the magistrates.

In the trial Lloyd said, "All the Jury need find is whether Bradford was the printer or not." Bradford: "This is not what the Jury are to find, but also if the paper is

sedition or not; and does it tend to the weakening of the magistrates' hands?"

Lloyd: "Nay, that is matter of law which the Jury are not to meddle with; the Bench are to judge of the sedition."

Some of the Jury said in conscience, they ought to try also whether the paper was seditious or not as well as the printing of it.

Lloyd argued: "If you find Bradford printed the paper, you should find him guilty. The paper was seditious and tended to all manner of wickedness. It is evident that Bradford printed it, he being the only printer in this place and the frame of type was found in his house."

Bradford argued: "I desire you Jury to notice there is not a seditious matter in the paper, but wholly religious differences."

Samuel Jennings, a Quaker Judge (for the Court which consisted of seven members, five of them Quakers) charged the Jury to find:

"1. Did the paper have a tendency to weaken the hands of the magistrates and encourage wickedness?

2. Did it disturb the peace?

3. Did Bradford print it without putting his name to it?"

The Jury found the defendant guilty.

Here says our ablest Pennsylvania authority on the subject, "For the first time, in English jurisprudence, a Court left to the Jury a determination of the Questions of the seditious character of an alleged libelous paper. The modern doctrine of the liberty of the press was established not in the trial of Zenger in New York, but in the trial of William Bradford; and the encomiums bestowed on Andrew Hamilton must be given to Samuel Jennings, Quaker Judge of Pennsylvania." And in the language of David Paul Brown we can say, "We have in this trial evidence of the

fact, interesting to the whole press of America, that on the soil of Pennsylvania, her Judges maintained, in 1692, with precision not since surpassed, a principle in the law of libel hardly then considered anywhere, but which now protects every publication of this State, and in much of our Union—a principle which the English Judges after the struggles of the great Whig Chief Justice and Chancellor, Lord Camden, through his whole career, aided by the brilliant declaimer, Mr. Erskine, were unable to reach and which at a later day became firmly established in England, only by the enactment of Mr. Fox's libel bill in Parliament itself."

And we Pennsylvanians must not forget that in the great Zenger trial in New York, which has always been heralded as the foundation of the liberty of the press in America, our then goodly province furnished both the fearless Andrew Hamilton, who fought out the principle for the defendant and also the precedent, the decided law, the solitary decision in the English-speaking world,—on which that New York case turned and thereby planted in that flourishing province the same liberty of the "fourth estate."

Lloyd's part in this achievement was small; but his heart in it was large and bounded with gladness over the result. His whole life was spent in constructing government, privileges and liberties *for* the common people and not *against* them. His official duty as prosecuting officer made his task in this case a bitter one to himself and he, no doubt, rejoiced in his own defeat. He is, however, entitled to that position and that portion of praise which always belongs to the agitator, out of whose initiative grows a great principle, no matter whether he agitated by direction or indirection.

## *II.—David Lloyd and the Restoration of the Province and Its Laws.*

Lloyd's first appearance in a constructive capacity in Pennsylvania was in 1693, when he assumed the rôle of preserver of the people's then existing laws and institutions,

rather than the inventor of new laws or the architect of new institutions. That year the King took our province out of Penn's hands and made Benjamin Fletcher, of New York, our military governor. Pennsylvania was now on the defensive. The new Governor declared by one fell decree, that former charters, constitutions, laws, customs and institutions were at an end, because of the inefficiency of our self-government, the miscarriages of our administration and our disobedience of British instructions. Fletcher appeared April 26th (1 C., 364), and David Lloyd came on the scene May 16th, the same year, as an Assemblyman from Chester County (1 V., 65). He was made a member of the Committee to assert the Assembly's stand that the Charter to Penn was still in force, that it should be acknowledged and confirmed by Fletcher and that legislation should proceed in accordance with it as the people's right and liberty (1 V., 67). To this Fletcher shortly replied that Penn's Charter was in direct opposition to Fletcher's commission and that he construed their action to mean their insubordination to his rule (1 V., 68). The next day he declared to the Assembly that they must not attempt to bring the Charter of Pennsylvania into competition with the seal of England—that their laws are all repugnant to England—that they cannot longer elect the Council—that they could not negative the laws he urged—that he would appoint all justices of the peace—that the King Charles Charter to Penn died with the King's demise—and that their model of government was wholly dissolved (1 C., 403). The Assembly asked to be governed by their own laws in so far as they do not conflict with Fletcher's commission. They made this the last pillar to which they would be driven and drew up a remonstrance against yielding another iota. David Lloyd was selected to draw the remonstrance (1 V., 68). In it he and his associates declared there was no justification for such an unjust superseding of Penn's rule, that the Courts had at all times been open and justice efficiently administered—that the

Province will not consider Fletcher's reign a new government, but simply that he was a new agent to carry on the old, and that he would be obeyed just so far and so long as he should not violate the people's just rights and privileges (1 V., 68).

The next day the Assembly selected Lloyd and seven others a Committee to examine whether our laws *were* repugnant to England and to decide what laws they would give up and what they would retain; and draw a petition asserting the people's right to maintain them (1 V., 69). The result was the famous Petition of Right. On this task Lloyd and his associates struggled a whole week, examined the body of the laws amounting to 200 and prepared a list of 105, which they demanded should be saved (1 C., 409 and 410). In the Petition of Right, Lloyd declared that the laws were legally passed under a lawful charter, that they were sent to England and not disapproved, and that, therefore, Pennsylvania justly demanded to be governed by them. Among the list of 105 were the law of liberty of conscience—a whole penal Code—Court proceedings—laws on contracts, etc.

These demands brought on a long debate between Fletcher and his self-constituted Council on one hand, and the Assembly on the other, in joint meeting, in May, 1693 (1 C., 418). Lloyd managed the Assembly's side.

The laws were attacked because the seal was not on them, nor was it shown they were sent to England for approval.

Lloyd defined his position as follows: "All we desire is, if these are the laws that were enacted; we came not here to dispute the form and validity of the laws by the want of a seal, or their not being legally published, but whether they are the laws that were made and published, which you confess. So the matter is at an end."

The new Lieutenant-Governor, hinting that the laws may not be in force, in spite of all the Assembly insisted

upon, Lloyd said, "Who can judge whether these laws be in force or not? None can be judges, but we who made them; since there is no order from the King or Council declaring them void, we desire they may be put into execution. It were hard that the want of a seal or some such ceremony should destroy our laws." (1 C., 419.)

The result of this was that Fletcher confirmed the laws asked for (L. C., 422), and made a new Code of 86 laws out of the 105 presented June 1, 1693 (B. of L., 188 to 220). At the same time there was gained by Lloyd's bold stroke the right of Assembly to initiate legislation, which theretofore they did not possess (1 C., 424).

This first victory having been won by Lloyd for the people against Fletcher, he now led them on the offensive against him. Lloyd's Committee was charged not only with the duty of rescuing our old laws from Fletcher's quietus, but also to draw such new laws as we needed (L. V., 69). Accordingly there were drawn 39 new laws and passed May 29, 1693 (1 V., 71 and 72). Of these Lloyd drew those providing appeals to the Supreme Court—forms of writs—sitting of Judges in cases in which they are interested—fines—bail—evidence—elections—estates—county taxes, etc. (1 C., 427). But he did not draw the Act to supply money to the Queen, which Fletcher demanded. Fletcher inquired why this was not done, and Lloyd replied, "To be plain with the Governor, here is the money bill, but the Assembly will not pass it until they know what is to become of the other bills sent up" (1 C., 427). Fletcher said, "I did not come here to make bargains and expose the King's honor. I will not grant any of your bills for all the money in your country."

And Fletcher proceeded to find fault with the new laws presented, and cut out of them several fundamental features affecting the people's liberty, and in this modified condition passed 30 of them (B. of L., 221 to 241).



This vexed the Assembly, but as a body they made no protest. But David Lloyd, with half a dozen members following his lead, however, did protest. One attempt to put this protest on the minutes of Assembly was voted down (1 V., 76), but on second attempt it passed (1 V., 77). This protest reads like a chapter of Magna Charta itself, reciting that "it is the right of the Assembly to receive from the Governor all bills sent up for approbation; the denial of that right is destructive of freedom in the law-making power—that it is also the people's right that before any bill for supplies be presented for last sanction, aggrievances should be redressed."

### *III.—David Lloyd, Early Builder of the Pennsylvania Judiciary.*

The questions of a judiciary procedure and a system of Courts were of course debated and partly solved before David Lloyd appeared on the scene in Pennsylvania; and indeed some features of those questions were solved before Penn's time. A student of Penn's first charters, to his people, is struck with the fact that, while in those charters complete executive and legislative departments were organized, there was no similar judiciary department in it; but only the niche into which a judiciary was to be placed. The reason was that the Duke of York's laws, established many years before Penn owned the province, were, by Ordinance of 1676 (B. of L., 455) extended into Pennsylvania and were operative on Penn's arrival. This system of jurisprudence Penn adopted for temporary purposes and used it as a stock upon which gradually to graft such a judiciary system as his province needed—not necessarily an English system, but rather a Pennsylvania system. The fundamentals of such a system the coming master-builder, David Lloyd, found in imperfect operation when he arrived.

The system needed much improvement because, except in high offenses a jury consisted of eight persons only—many remedies were administered without a jury—appeals from the Courts were to the Assize, or executive department of the Government—many causes were not provided for at all—nor was an affirmation allowed instead of an oath.

Among Penn's first establishments were the guarantees that the Courts should be open to all, to appear and plead their own causes in their own way—that proceedings should be in English—trials by Jury—that liberty of conscience should be inviolable and the other "ancient and undoubted rights of Englishmen" should be firm.

The first want felt in the judiciary was a Court of last resort, without the necessity of going to England; and in 1684 the first Pennsylvania Supreme Court was established and took jurisdiction of the appeals formerly heard in Grand Assize and later by Council (1 C., 108 and 120). It was, the same year, enacted that every Court should be a Court of Equity (1 C., 120). This is the extent to which the development of a new Court system had attained when Lloyd appeared in 1686.

And indeed, little was heard of him in the domain of the judiciary system until in 1693, (when Fletcher was "playing bull in the china shop,") he saved the Court system then extant from the destroying stroke of the tyrant; and also succeeded in drawing a law regulating appeals to the Supreme Court which became, in part, a new establishment of that Court (B. of L., 225).

Nothing more was done toward the establishment of a judiciary system until the year 1700. Penn, having returned to his province, said to Council, April 1st, "We have much to do to establish the Courts of Justice" (1 C., 596). David Lloyd was now a member of Council and with them began working upon new laws, including a Court

system (1 C., 599), when, about five weeks later, he was dismissed from Council because he had ridiculed the King and defied the King's Admiralty Court as having no jurisdiction in Pennsylvania (1 C., 604). Penn was personally present and presiding at the Council which cast Lloyd out and advocated it; and from this date and event began the intense hatred and enmity which Lloyd to his dying day felt for Penn and made Penn feel so sharply and so often.

But though David Lloyd was not then a member of Council or of Assembly, yet because he was the keenest lawyer in the Province, at that time, he was employed by the Assembly and Council in October, 1700, to draw their laws for them (1 C., 617, and 1 V., 129). Among the laws drawn by him were laws regulating presentments to Grand Jury—regulating attachments—compelling witnesses to testify—regulating Court proceedings and summonses—fixing a Jury at twelve men in all cases and regulating appeals to the Supreme Court (2 St. L., 134). The last named was really a rudimentary Supreme Court Act; and there seems to be no doubt David Lloyd drew it (1 C., 617).

The Supreme Court Act of 1684 was abrogated by William and Mary in 1693 (B. of L., 168, note), and thus, November 27, 1700, this one was passed. It contains several new inventions not in the Act of 1684; but uses the old Act as a nucleus. Lloyd grafted into it, however, the following inventions and improvements: The original jurisdiction of the Supreme Court was cut down to and limited to heinous felonies only and did not, as the old Act did, include trial of land titles. And all original civil jurisdiction was taken away. The appeal provided not only for correction of errors, but a hearing of the merits and facts *de novo* as well, in cases over £10. Before these Supreme Court Acts were passed appeals were to the Governor and Council (B. of L., 129).

The laws of 1700 were not wholly satisfactory and therefore certain of them were re-enacted October 28, 1701, and a special repealer, passed the same day, annulling every law ever passed in the province except those then re-enacted. Thus the Code of 1701 became the foundation of our body of laws (2 St. L., 148).

The need of a complete judiciary system had not yet been supplied, and thus in 1701 Assembly and Council began work upon a complete system. Lloyd was not a member of either body, but his valuable aid was secured, and October 16, 1701, the new Act to establish the system of Courts which he had drawn was presented by him to the Assembly (1 V., 158). This was the first complete judiciary system of Pennsylvania (2 St. L., 148). It will be highly profitable to us to examine its scope, study how much of it is in existence to-day and what was Lloyd's general view of the powers of a judiciary. What he adopted from England's system and what he invented will also be interesting. Two great ends he accomplished in drawing the system—he built up the former fragments into a symmetrical whole; and grafted an American or at least a Pennsylvania system of jurisprudence upon the Duke of York's laws and the English system. Lloyd being apparently the only lawyer whose hand moulded this Court system, according to the records, it may be considered his system.

Let us now examine the system. The provisions relating to the Supreme Court, as to the number of Judges, the times of sitting, and the circuits of the Court are the same as those of 1700.

A new departure was, however, conceived by Lloyd and his associates in the jurisdiction and proceedings of the new Supreme Court. It had three classes of jurisdictions—original, appellate on the merits and review upon errors of law. Its proceedings thus included trial, retrial and review.

Original jurisdiction was confined to trial of treason, murder and other felonies of death. The former practice of beginning land title suits in this Court was thus struck down.

The appellate proceeding on the merits or the trial *de novo* was allowed before or after verdict, but only before judgment and began by "petition, bill or plaint," after security given for or deposit made of the amount recovered below, with costs, upon which the lower Court granted the appeal, its clerk gave notice of the same to the Governor and the Governor gave notice to the Supreme Court Judges, who at a later date were to "hear and determine," as to facts and law, all causes appealed—and to revoke, alter or affirm, the decrees, sentences, acts and proceedings of the lower Court, whether the matter appealed from was a verdict or a decree, order or proceeding prior thereto. These proceedings were had on the circuits and when they involved controverted facts were tried by a jury.

The review of errors was a proceeding allowed after judgment or final decree below, only. It was begun by applying to the Governor for a writ of error (who was compelled to grant it as a matter of course without examination) commanding the record to be brought before the Judges of the Supreme Court. But the writ and assignments of error were first to be taken before one of the Judges who tried the case, to examine, and if the matter were merely amendable he should so amend, but if substance of law, the justices should allow the writ and send up the record, after taking recognizance; and on argument the Supreme Court were to reverse or affirm judgment below. From this there was an appeal to the King in Council. The old law of 1693 (B. of L., 225) allowed the merits to be retried in the Appellate Court before or after judgment below, but by this new law of Lloyd's after judgment below, only errors of law could be examined above. This law provided an efficient and powerful Supreme Court and the provision of circuits brought justice to each man's door.

The County Courts of not less than three justices were empowered to hear and try all criminal cases, except felonies of death, in general or special Courts, and also to try all civil causes, real, personal and mixed, the same as the King's Common Pleas in England—regarding however the infancy of the Province—keeping to brevity, plainness and truth, and avoiding all fiction and color. The justices of these Courts (who really comprised the whole body of the justices of each county), had the full power of justices of the peace as to binding to keep the peace, preliminary hearings and return to Court, but did not as individuals have cognizance of civil causes, as do our modern Justices' Courts. All civil causes were to be brought in the Common Pleas side of the County Courts, even if only a single shilling were involved.

These County Courts also had full power to hear and decree all matters and causes in equity by bill, answer and other pleadings, such as were necessary in Chancery, from the decrees of which parties could appeal to the Supreme Court. Under the Duke of York's laws, matters of equity were heard in the Grand Assize (B. of L., 35) or in the Session Court (B. of L., 66); and also in the County Courts by the Acts of 1684 (B. of L., 167) and by the laws of 1693 (B. of L., 225).

This 1701 Court Act drawn by Lloyd also erected the justices of each county in conjunction with the Register General of the Province, or one of his deputies, into an Orphans' Court, with power to call any person before them having charge of any estate belonging to a minor and compel them to file inventories and to account and distribute. But its jurisdiction extended only to estates in which a minor was interested. No appeal was provided from this Court. There was an embryonic Orphans' Court law passed in 1683 (B. of L., 131), reposed in the justices of each county, but its powers extended only to the estates and employments of orphans. It was abrogated in 1693, but was

one of those Lloyd induced Fletcher to re-enact later the same year (B. of L., 205).

This Act also prescribed the modern form of summons, writ of attachment and warrant; allowed the Judges to make their rules of Court, restraining them, however, from making any rule which would compel an oath to be taken or administered instead of an affirmation in any case, by Judge, witness, jurymen, party or anyone else; and restraining Judges also from fixing fees. The Act then repealed all other laws regulating the erection, procedure and jurisdiction of the Courts of Pennsylvania.

This system of Courts met all needs for five years, and only two amendments to it were suggested in that time. In June, 1704, it was urged by a bill offered in Assembly, that the Common Pleas shall have jurisdiction of all civil cases, no matter how large or small (1 V", 7 and 9), but as the old Act limiting jurisdiction fell under the stroke of the general repealer of 1701, and as there was no limitation of Common Pleas jurisdiction in the latter Act, the bill was useless and did not pass. The other amendment was to allow the equity rules, agreed on in Council, to be in operation in all the Courts (2 C., 160).

The distinctive features of this system were, a powerful and efficient Supreme Court—initiative, remedial and circulating throughout the Province—a liberal equity procedure—an unhampered Common Pleas with an unlimited civil jurisdiction—a criminal Court empowered to preserve and bind to keeping the peace, and in a simple proceeding, punish all crime—a new Court, transferring the care of minors and the administration of estates from the executive department (managed by the Register General and his deputies) over into the judiciary called the Orphans' Court and a simple method of procedure in all the Courts, regarding all tenderness of conscience, and allowing parties to plead their own causes in their own way or to employ attorneys at their option.

Toward the end of 1705 it became known that our Court system with other laws was disfavored by England; and to prevent its repeal, David Lloyd and others were appointed a Committee to amend it (1 V", 53). Council also began acting on improvements (1 V", 73), and on January 7, 1706, presented a new bill to Assembly to establish the Courts (2 C., 222 and 223). But Assembly resolved to take no notice to it (1 V", 77).

February 7th the Queen struck down our whole Court system of 1701 for no other expressed reason than that the "Act is so far from expediting the determination of law-suits that we conceive it will impede the same" (2 St. L., 481 and 482). Later we shall see that England meant by this that our Supreme Court, which Lloyd considered the pride of the system, was useless and tended to multiply trials.

This action of England reached Pennsylvania during the summer of 1706, and September 19th, Governor Evans, having called a special session of the Assembly recommended to them the re-enactment of a system of Courts (1 V", 87), and the next day Logan from the Council laid before the Assembly a bill drawn by "some of the practitioners at law" to re-establish the Courts (2 C., 252). The Assembly read the bill and also the one sent them by Council in January preceding, but took no action (1 V", 88).

The next day, September 21st, David Lloyd presented to the Assembly a bill of Courts which he had drawn, and it was amended, passed and ordered presented by Lloyd to the Governor in the name of the Assembly (1 V", 88). And with that the foundation was laid for a long legislative legal battle over two theories of a judiciary system that was to take years to decide.

Lloyd's proposed new Court system differed materially from the old one. The Supreme Court was to be strictly a Court of review; its original jurisdiction was to be struck out and those felonies formerly triable there were to be



tried by a special commission of Oyer and Terminer—its retrial on appeal by “petition, bill or plaint” of causes tried or partly tried below was dropped, and its jurisdiction was to attach only on writs of *habeas corpus*, *certiorari* and writs of error to remove causes and persons. These writs were to be grantable by the Supreme Court and not as heretofore by the Governor, and the Court was to have a Chief Justice designated among its members. All equity jurisdiction was taken from the Courts and placed in the Council; Orphans’ Courts were omitted; but the civil and criminal County Courts were left as before (2 C., 253). Lloyd agreed that equity jurisdiction might be lodged in Governor and Council in exchange for the provision that the Supreme Court should continue to go on circuits into the counties, for popular convenience. Most prominent people held that the Governor and Council were the true Chancery Court, as the fountain of mercy and mitigation, and Lloyd as leader of the people’s party had a herculean task to wrench this branch of jurisprudence from the executive department of the government and fix it in the judiciary, where it finally took root and remains to this day. The power to reprieve and pardon is, to-day, the only vestige of the old Chancery jurisdiction left in the executive. The Council after advising with the Philadelphia Bar, made two main objections to Lloyd’s bill—that the Supreme Court should not go on circuits, but sit permanently at Philadelphia, and that as there was no longer a retrial before the Supreme Court, but only examination of the record, there must be a provision for appeal from the Supreme Court to the Governor and Council, who might pass on the merits if they saw fit. Council also demanded provision for change of venue in prejudiced cases before the lower Courts (2 C., 254 and 255). Lloyd and his Assembly would not agree to these demands, insisting that one fair trial was all that any one could demand, insisting if there was mistrial below, parties could arrest judgment and have their remedy there; and

that Council had no right to review the Supreme Court (2 C., 255).

A conference was arranged (2 C., 257). Lloyd and the Assembly demanded continuance of the circuits because the country people insisted they must not be compelled to go to the expense of a long journey to Philadelphia to reverse a case of £10, as the expense would be larger than the recovery, and thus the country litigants would lose all advantage of that Court. The Council's main complaint was that Lloyd's bill also made the Supreme Court largely useless by limiting it to review only, and that few cases would be reviewed—that the people needed most a higher Court of retrial—a chance of a new trial in a Supreme Court and that the Supreme Court might have a general common law jurisdiction.

In conference this result was reached: The Council agreed that the Supreme Court should continue to make regular circuits into each county twice a year, if Assembly would agree that litigants could either elect to bring their causes in the lower Court or in the Supreme Court when sitting in the proper county,—or having begun the cause in the lower Court, could, at any time, certify the cause into the Supreme Court before or after trial, when the Court should be sitting in the county. This the Assembly agreed to in order to save the privilege of having the Supreme Court visit their counties on regular circuits.

The idea of a provincial Supreme Court was evidently new to America and to Britain. England declared that we did not need any such Court (2 St. L., 548). In the Colonies the Council was so eminent and transcendent over the Assembly and commonalty that it is natural the Council of Pennsylvania should feel the Supreme Court was beneath them and that they could review it. It remained for David Lloyd to blaze the way for the true constitution of a provincial Supreme Court and make it what it is to-day, largely a Court to review the law only of the case tried below. That

is, Lloyd saw that the old powers of review in the Council should be lodged in a Court of review—that the subject of a review of a lawsuit should be in the judiciary and not in the executive branch of government. Lloyd was the manager of the Conference for the Assembly (1 V", 89).

When the waters seemed to be most placid, the rocks of controversy suddenly arose and on them the conference split into jarring, pounding factions, and each house declared anew its position and sent its ultimatum to the other. September 26, 1706, the Assembly led by Lloyd declared for County Courts not to be reviewed in matters under £10,—the re-establishment of Orphans' Court—a Supreme Court of general jurisdiction, but to review matters of law only, and that it shall make regular circuits. These demands Lloyd took to the Governor, announced them to be final and demanded no further debate until the new Assembly should meet (1 V", 89, and 2 C., 258). The Council sent their final decision to Assembly, demanding the right to bring suits originally in Supreme Court—the right to remove cases to the Supreme Court before trial, for trial there—the right in Governor and Council to be the Equity Court (2 C., 258). The Council also asked David Lloyd to assist in drawing a law to erect the Courts according to these proposals (2 C., 259); but we shall see that he refused to do so and instead presented a new bill of his own at the meeting of the next Assembly (1 V", 97).

These, now, were the two opposite positions taken by Assembly and Council, respectively, at the close of Assembly, and defending these positions the two parties took up the task anew when the new Assembly met, October 14, 1706.

David Lloyd was Speaker of the new Assembly, and at their first meeting the Governor laid before them a new bill of Courts drawn by able lawyers for the Council (1 V", 93), which the Assembly read the same day, postponed consideration till October 19th (1 V", 95), and then resolved

to ignore it. Under the leadership of Lloyd they resolved on a new bill of Courts themselves, modeled after their former bill, strengthened by improvements.

The Supreme Court was to be constituted as they formerly proposed, but its powers were to be wider, by having in addition to the formerly proposed writs, the issuance of prohibition, injunction, *audita quaerela*, mandamus and restitution,—all process usually granted by the Court of Queen's Bench in England, and all other writs and precepts, except original writs and process—and power to punish contempts, corruptions and defaults of justices, sheriffs, coroners and other officers. While the Court was to be appellate only, it was to have appellate *equity* jurisdiction—to grant all removals to it without aid of the Governor as heretofore, and to go over circuits only when business demanded it.

The Assembly's proposed bill also included a Quarter Sessions and Jail Delivery, with powers to try all crimes, except high felonies for which it provided an Oyer and Terminer commission, which were, however, indictable but not triable in the Supreme Court, this Quarter Sessions also to control liquor licenses—a Common Pleas Court to be held by the same justices to try all civil cases and to have similar powers to the Common Pleas Courts of England, and also to have an Argument Court every six weeks to dispose of interlocutory matters and to make all orders necessary to bring cases to speedy issue and trial—also an Equity Court to sit four times a year, with full original jurisdiction of all equity cases, appealable if over £10—and all procedure was to be simple and void of color and fiction (1 V", 95 and 97).

In this scheme we see the Supreme Court (which England said we did not need at all) made stronger than ever, though only appellate—granting its own writs of removal without aid of the Governor—equity jurisdiction taken away from the Council and again given to the Courts—Civil and Criminal County Courts with plenary powers—Orphans'

Court omitted,—and control of liquor licenses taken out of the Governor and put in charge of the Courts.

David Lloyd not only led the Assembly to the adoption of these powers for the intended Courts, but he was ordered by the Assembly to draw the whole proposed judiciary system into a bill to be passed into a law (1 V", 97), which he did, reporting the same October 28th (1 V", 97). It will not be truthful to say that David Lloyd conceived in his own brain every minutia of the system; but it will be unfair to him not to contend that by far the chief features were all invented and produced by him, because as the main and often the only legal mind in Assembly, he did, individually, initiate those steps which in their next stage appeared as the resolves of the Assembly, over which he was master, whether Speaker or not—especially all steps relating to Court establishments. The Assembly added a section to Lloyd's bill establishing an Orphans' Court, and then on November 8th, quickly passed it and sent it to the Governor for approval (1 V", 100).

Council considered it "a long tedious bill" (2 C., 261) and declared Courts must be established by ordinance, unless the Assembly agree to the Council's view and bill of Courts (2 C., 262). The Council's objections were that it was like the Act of 1701, only worse, which Act men of legal learning always objected to as exceedingly inconvenient; that it did not accord with English practice, as the Council's bill did; that Lloyd's Supreme Court was intended only to correct errors of law, which made it largely useless, because no writ was provided able to remove a cause before judgment and the writ of error brings very little relief and multiplies trials, since it is only able to reverse and remand to try the cause over again, instead of correcting the judgment, and that this result virtually rejected the writ of *habeas corpus*, *certiorari*, etc. (bought with so much blood by our forefathers)—the enumeration of powers is uncertain and it were better to say the Court should have

the powers of the Queen's Bench in England—that the bill took from the Governor his right to appoint and remove Judges, clerks and officers generally—the Court of Equity ought to be in Governor and Council, as this was the case in all the other American Colonies—the Courts should be allowed freely to make their own rules as Judges best know when to change the rules, etc.—that the granting of licenses belongs unhampered to the Governor and not to the Judges—that fines and forfeitures belong to the Proprietor and cannot be taken to pay Judges' salaries—that all original writs must issue out of the clerks' offices and not under the hands of each justice or Judge—that freedom from arrest for debt is a great mistake—that it was a great weakness that Judges who have heard a matter in law should again hear the same matter sitting in equity, and that orphans should have a better security than the county justices, being an Orphans' Court, which should all be left in the control of the Register General and his deputies (2 C., 263 and 265 and 1 V'', 101).

To these objections the Assembly, Speaker David Lloyd taking the floor in Committee of the Whole, framed several replies, November 21st (1 V'', 103), and laid them before Council as follows (2 C., 266): The Assembly's bill is as nearly an English system as Pennsylvania conditions will admit—no power will be allowed the Governor which does not belong to him—Courts cannot be erected by the Governor's ordinance—the Supreme Court is properly constituted and has equity powers sufficient to do exact justice—there is sufficient liberty for removal of causes or the bodies of persons in our bill and the Habeas Corpus Act is not set aside—the Governor should not have the right to remove Judges and officers without cause preferred by Assembly, as Judges must be independent of the Governor and not fear removal on his own caprice—Governor and Council should not hold Equity Court, as Councilors are simply good sentinels and watchmen for public good, but

should not meddle with private causes, besides they are not skilled in the law—but if law Judges should not hold Equity Courts, Assembly will agree to the Governor appointing a distinct commission of chancellors or equity Judges to do so not members of Council—practice of Courts is properly regulated by a law and not by rules of Court, which cannot be uniform, but as variant as one Judge's notions differ from another—liquor licenses ought to be granted by the Courts—original writs must be granted under the hands and seals of the justices, but not judicial writs—there must be a certain exemption from arrest for debt, as otherwise the subjects will be oppressed and paupers will abound—orphans' estates are safe in the hands of the justices—and if the Governor attempts to erect Courts by his ordinance without assent of Assembly, the Assembly will take such measures for its vindication as may be necessary (2 C., 266 to 270). All this by order of the Assembly was drawn up by David Lloyd (1 V", 104 and 107).

The Council immediately answered Lloyd's challenge (2 C., 271), denying all he demanded and particularly pointing out that Lloyd's system was far from the English, and was also different from the Court system of any other colony in America—that the Governor, at the head of the Equity Court, held by Council, would make that Court much more solemn and dignified than if held by mere justices and Judges—that the Assembly is wrong as to the justices signing original writs and that the exemption from arrest proposed will fill the land with knaves (2 C., 271 to 275).

The Assembly's retort drifted into personalities between Lloyd and James Logan and ended by a threat to impeach Logan, which later the Assembly made good. The Court bill, as Lloyd drew it, the Assembly insisted, must be accepted *in toto* (2 C., 277 and 278).

December 2d, the Governor tried to conciliate with the Assembly, but they were firm as Gibraltar (2 C., 279 and

282). Finally, the Governor agreed to give up his bill and accept Lloyd's bill of Courts if the Assembly agree that writs of *certiorari* be granted as freely here as in England, if the necessity of proceeding to try the entire case over again when reversed is avoided, and if a few other matters relating to the procedure of Courts, and removal of Judges be amended (2 C., 288). A Committee, with Lloyd as chairman, *ex officio*, was appointed to answer this overture (1 V", 124), and they did answer it by rejecting the Governor's proposal (2 C., 289-296), passing strictures on the Council, and saying for themselves, "We are not striving for grants of power, but what are essential to the administration of justice, and if we have not been in possession of this these twenty-four years we know where to place the fault, and it is high time we were in the enjoyment of our rights" (2 C., 293). That Lloyd drew the various papers is shown also by the fact that he was paid £18 by Assembly for doing so (1 V", 125).

A later conference of the warring houses was held, in which the Governor called Lloyd's bill the "longest ever drawn in America." He insisted that Judges should be appointed only during the pleasure of the Governor, and that the Court law ought to be copied strictly after the English system (2 C., 301, 308 and 309). Lloyd replied to the second proposal, saying the laws of England do not extend to Pennsylvania unless we adopt them as ours, and we need not conform to them. As to Judges holding office during pleasure of the appointive power, Lloyd showed by Penn's early fundamental laws and concessions that Judges were to hold office during good behavior, and he warned the Council not to change or strike down that safeguard of an independent judiciary, saying that Courts were so protected in England until in the time of James II, when he, to make the Judges countenance his arbitrary acts and abuse, removed them (2 C., 313). Thus, said Lloyd, if the Governor may remove Judges at will, they no longer remain Judges, but



become puppets (2 C., 313), and these people will not make terms on which they must bargain away their liberties (2 C., 314). At this point Lloyd, as manager and Speaker of the Assembly, ceased to rise in his frequent replies to the Governor, being weary, but kept his seat, for which the Governor publicly lectured him, whereupon he and the whole Assembly felt themselves insulted and in high indignation swept in a majestic procession out of the Council Chamber. Lloyd held that the people were supreme and that their representatives did not need to rise in addressing the Governor nor any other man if they did not choose to do so (2 C., 314), and the Assembly stood by him (2 C., 316). There were later conferences, however (2 C., 323), and at one of them the Governor and Council accused Lloyd that his bill would make the whole power and proceedings of the Courts independent of the Government, especially as Sheriffs were in the choice of the people and clerks in the choice of the justices, and that the Court could, with that machinery, not only be independent of the executive department, but might, hydra-headed, rise in opposition to it; and further that the Speaker, David Lloyd, the chief compiler of the Court bill, by that and other Acts, designed to take away nearly the whole power, both in matters of property and of government out of the hands of the Proprietor and Governor, and lodge it in the people, whereby his aim was to reverse the methods of the Government according to the English Constitution and establish one more nearly resembling a republic in its stead (2 C., 325). This is an accusation which every American would be pleased to merit to-day, and it gives Pennsylvania the honor of being first of all the Colonies aspiring to a republican form of government.

This shows the rock upon which the vessel split, and after numerous other attempts to get together, the impossibility of it became so clear that February 22, 1707, Governor Evans made his threat good and promulgated an ordinance erecting all the Courts (2 C., 337 and 1 V", 152).

This ordinance simply adopted the modified English system of Courts. It was only a skeleton Act. It recognized, however, some of the principles that Lloyd fought for and worked fairly well several years.

Lloyd drew for the Assembly a long remonstrance against it (1 V., 157 and 2 C., 351). And when the new Assembly met, October 14, 1707, David Lloyd being again Speaker, Lloyd's Court bill of the former Assembly was again read, quickly passed and sent to the Governor with a demand for its approval (2 V., 2 and 3). This was refused and the Court subject was gradually let slip off the calendar and finally dropped until 1709, when the new Governor presented a new bill of Courts (2 C., 503). This was met by the Assembly again approving Lloyd's bill under his leadership again as Speaker (2 V., 63), when the subject again dropped.

Then came October, 1710, and Lloyd was defeated for Assembly, but January, 1711, the Assembly again read the Lloyd Court bill (2 V., 76). This was presented to Council (2 C., 518) and amended (2 C., 518, 519) and finally passed February 28, 1711 (2 C., 529), containing most of the great principles for which Lloyd stood. The ordinance was now at an end after four years' service. This Act omitted erection of an Orphans' Court, and in 1714 the Orphans' Court section of Lloyd's Court Law of 1701 was adopted as a separate law (2 V., 129, 130 and 131). It is almost in the exact words of the old Act (3 St. L., 15).

February 20, 1714, England struck down this Court Law of 1711 (2 St. L., 331), the only reason given being that we had no need of a Supreme Court, since complete justice could be obtained in the inferior Courts (which Britain also struck down)—that the Supreme Court only drew from the inferior Courts what business they thought proper by *certiorari*, writs of error, *habeas corpus*, etc., which would only multiply suits and make proceedings at law more expensive—that if there must be removal of causes to higher

Courts the causes may be removed to England to the Queen—that justices of the peace being allowed to bind parties to keep the peace, simply on an affirmation, have arbitrary power—that part of the Act declares certain English statutes shall be put in force in Pennsylvania *as far as circumstances will admit*, which is an unmannerly and improper way to treat an Act of Parliament—that our proceedings in equity would be unsufferably dilatory and multiply trials (3 St. L., 548). And then as a whole the law was struck down.

Against the protest of the Assembly, the Governor, July 21, 1714, again put the Courts in operation by an ordinance (2 C., 571). February 8, 1715, David Lloyd, again a member of Assembly, but not Speaker, reported that with the aid of the clerk he had prepared several bills, among which were four, to erect again the Court system—a bill for a Supreme Court of Law and Equity, a bill for a Court of Common Pleas, a bill for a Court of Quarter Sessions, with Oyer and Terminer clause, and a bill for affirmations in lieu of oaths (2 V., 164). This idea of separate bills was to ensure the chance of England sparing one Court if not another, as the Orphans' Court had escaped royal wrath, being a separate bill. It was decided that the sections relating to practice should be taken out of these bills, and that that subject be regulated in a separate bill, which Lloyd attended to and drew up also (2 V., 165, and 2 C., 595). As a whole, the bills contained the same provision as the old Lloyd Acts of 1701 and 1705, but they had several improvements, mostly drawn by him also. The Supreme Court became an Appellate Court of law and equity and lost its circular character. But it also again was to try felonies of death (3 St. L., 65). The Quarter Sessions Court was mainly as before (3 St. L., 33), and the same is true of the Common Pleas (3 St. L., 69). The Practice Act was a long one, and in many ways laid the foundation of our modern practice (3 St. L., 73).

These Court laws remained in force till July 21, 1719, when they, as well as the Practice Act, were struck down by Great Britain for the same reasons as were the laws of 1711 (3 St. L., 463 and 464). November 9, 1719, the Governor invited David Lloyd (who was now Chief Justice, and from 1719 to 1723 not a member of Assembly) to be present in Council, and take up with him and with Council the question of re-erecting the Courts (3 C., 75). Lloyd was Chief Justice from 1718 to his death in 1731, but that did not prevent him being a member of Assembly in 1723-25-26-27-28, which ended his legislative career. Lloyd, in order to avoid re-establishment of the Courts by ordinance, provided commissions of such character for the Judges that the proceedings should continue the same as if the Court Law had not been struck down (3 C., 90).

The Province seemed to be satisfied with its legal establishment on the Lloyd continuances until 1722 (3 C., 175). May 16th, Jeremiah Langhorne, Speaker of Assembly, laid before that body a bill to again establish the Courts (2 V., 322), and it was hurriedly passed May 22, 1722 (3 C., 174, and 3 St. L., 298). The whole Act is nearly a complete transcript of the Acts drawn by Lloyd and he may have drawn this one, or at least it is copied after his models. This Act remained in force till 1727, when another was passed in its stead. The complaint against the Act of 1722 was that the Supreme Court began to exercise original civil jurisdiction and oppress the people though no such power existed in the Act (3 V., 6). The Philadelphia merchants petitioned for amendment and the Assembly found (3 V., 11) the entire Act should be supplied by a new one. The Assembly Committee, of which David Lloyd was Speaker and Chairman *ex officio*, August 15, 1727, reported the new Court Law (B. of L., 308), and August 27th it was passed (4 St. L., 84), but August 12, 1731, after the death of Lloyd the Act was suddenly struck down by England because John Moore,

Collector of the King's customs, reported the Act endangered the King's revenue by allowing importers to defy its collection (4 St. L., 421, 429 and 431).

Now, as England never annulled our laws of 1722, the Province, November 27, 1731, revived that law (4 St. L., 229), and that same law, amended somewhat, September 29, 1759 (5 St. L., 465), and again May 20, 1767 (7 St. L., 107), and in minor points since, remained in force during the Revolution and indeed almost intact until in the Code of 1860 sections 1, 2, 3, 4, 6, 8, 9, 10 and 19 were repealed, while the remaining part of it stands in force to-day. And, indeed, many of the sections struck down were re-enacted *mutatis mutandis* as to Orphans' Court, the Common Pleas, the Quarter Sessions and the Supreme Court by the modern Acts found in P. L. 1832 (page 211), 1834 (page 352), 1846 (page 433) and 1860 (page 427), and many other Acts, all of which contain considerable part of the main framework of the Court system drawn by Lloyd from 1701 to 1722. And with much of that framework within its vital parts our system of Courts exists to-day. Considerable of the groundwork or foundation laid by Lloyd is yet discernible in our Supreme, our Common Pleas, our Quarter Sessions, our Jail Delivery, and Oyer and Terminer, our Orphans' and our Equity Courts, as well as in the rules of the Equity Court which he and Andrew Hamilton originally drew; and perhaps in the rules of the other Courts also (3 C., 266).

That Lloyd trod a new path in his labors in the erection of our Court system is clearly shown by his opponent, James Logan, who in the fall of 1725 (Ap. 1725, Hist. Soc.), in a pamphlet said that David Lloyd in the debates in Assembly was known as "Our Oracle of the Law," and that "his talents were relied on and he produced a vast bill of about twenty sheets crowded with matters so far from being essential to the construction of Courts that some of them were never before nor have ever since been either proposed or

heard of; yet by his influence and management they were so strenuously insisted on under the name of privileges that unless the Governor would give in to them the country must languish above twelve months for want of Courts; and his opposition to any other views was so great that the Governor's ordinance setting up Courts, that most necessary provision for the greatest of all rights, was so highly remonstrated against as illegal, because not founded on an Act of Assembly, that some of those summoned to serve on the grand and petit jury openly in the face of the Courts denied their jurisdiction."

Nor did David Lloyd simply copy the English system in what he built. He was constantly charged with disregarding that system. Lloyd's work was done before the days of Blackstone, and thus it was difficult to gather up and determine what the English system was, as the mass of precedents making it up were scattered in hundreds of reports. As to a Supreme Court there was not, *eo nomine*, a Supreme Court in all England, for the Court of last resort was in the House of Lords—a part of the Legislature (3 Bl. Com., 411). Many differences are observable between the Pennsylvania plan of Courts and the English system in Lloyd's time. The King's Bench, or Supreme Court of England, was the chief Court of original and appellate jurisdiction, both civil and criminal (3 Bl. Com., 410); in Pennsylvania the Supreme Court was mainly appellate by way of review, yet cognizing certain great crimes originally. In England there was no equity procedure except in the Superior Courts; but in Pennsylvania the lower Courts were Courts of Equity, as well as of law. In England there was no Orphans' Court, this office being one of the functions of the high Court of Chancery; in Pennsylvania there was Orphans' Court jurisdiction in the Common Pleas justices. In England the Common Pleas was a great central Court for the entire kingdom, sending commissions of assize and *nisi prius* into the counties to try the facts and report the find-

ings to Westminster for judgment, but in Pennsylvania there were separate independent Common Pleas Courts in each county. In England also there was a central Criminal Court, for which the facts were also tried by the commissions of assize, jail delivery or Oyer and Terminer in each county, and which they reported to the central Court. And in England nearly all the Courts were held in the grasp of the great King's Bench, which could command the others at will and in fact made them largely auxiliaries to it, but in Pennsylvania the several classes of inferior Courts were independent of the Supreme Court in their spheres.

The Pennsylvania system also differed from the English system of Colonial Courts, and especially is this so as to our Supreme Court. Fred. John Paris, our agent, in 1731 said (4 St. L., 438) that Pennsylvania was about the only province that had a Supreme Court. Thus it is fair to say that David Lloyd invented much that was new both to England and America in our Court system, which he built up, and no small part of what he built is, in substance, in existence to-day.

#### *IV.—David Lloyd and Provincial Pennsylvania Constitutions.*

While Pennsylvania struggled up through four charters or Constitutions before the people felt satisfied that they had secured their rightful share of liberty and before they secured in 1701 the charter under which they were content to live until the Revolutionary War, David Lloyd had a share in the construction of only the last two of them, that of 1696 and that of 1701.

In the Archives of the Historical Society there is the original manuscript of Penn's first frame of the Government of Pennsylvania, and on its margin are notes by Algernon Sydney and John Locke. Locke, Sydney and Penn—and all these inspired by Milton—what greater guarantee of liberty could mortal ask? And indeed, the people of

Pennsylvania did not complain; but Penn feared for his rights, and thus induced the Assembly of Pennsylvania to give up its charter, granted to them in 1682, and accept the narrower one of 1683. Under this the province lived until 1696, in the meantime demanding the initiative in law-making—full legislative privileges for the popular house— independence of legislative, judiciary and executive departments, and restoration and enjoyment of full popular privileges and rights. When David Lloyd arrived in Pennsylvania he found the people under the restrictive charter of 1683. In 1695, the first year he was a member of Council, he was appointed on a Committee to draw a new Constitution for the Province to restore the old rights (1 C., 486), but nothing tangible was reached. In 1696 another effort was made to create a new charter, and Lloyd was a chief member of the Committee (1 C., 506); and accordingly a new charter was adopted. This charter was liberal and extended the elective franchise—it allowed affirmations in lieu of oaths—each house were to be judges of the elections and qualifications of their own members—the Assembly to have full power of initiative in legislation—the right to sit on its own adjournments and by Committees—an elective upper house to have the right to assent to or to negative any bill before it could become a law, the same as the lower house, and both chambers of the Legislature to be of equal dignity (1 C., 507).

Then came the great charter of 1701, which threw a large preponderance of power into the hands of the people. While David Lloyd was not a member of Assembly when it was passed, he had much to do with it, and it is certain he drew much of it (2 C., 325), and also drew the property charter (1 V., 137), by which two instruments he was accused of designing to set up a republic here in Pennsylvania. Logan also seems to accuse Lloyd of having a leading hand in drawing this charter (2 V., 420). In the Penn-Logan correspondence there is further evidence of it (1 P. and L.,



53 and 54). And thus another golden star must be placed in the crown of this apostle of liberty and popular rights.

*V.—David Lloyd and a Bi-Cameral Legislature.*

Lloyd's views on the constitution of a Legislature are most interesting. To him a well-organized and untrammelled Legislature was the corner stone of infant Pennsylvania's true liberty. And while he was deeply concerned in all the provisions of the two charters or frames of government of the province, in which he had a hand, the Legislature was so pre-eminent to his mind in his later years that I beg to notice his views on it separately from our brief consideration of his part in the charters as a whole.

When he came on the scene, Pennsylvania was struggling under the charter of 1683, which denied the initiative to the popular house; and on the other hand the Governor's Council was the chief power in legislation. It regulated the scope within which the Assembly could act by determining what proposed legislation should or should not be laid before them; it dominated the Governor because he could do no act relating to justice, trade, treasury or safety without the consent of Council (Sec. 12). Lloyd thus found two serious defects—the want of the Executive's independence of the Legislature and the want of the balance of powers or the adjustment of constitutional checks. The Council was both powerful and unique—it was also hybrid—it had legislative, executive and judicial functions. Its reduction until it became a logical and fitting integral of a bi-cameral Legislature was one of the life tasks of David Lloyd. Great popular complaint arose over the deflowering of the Assembly in 1683. Lloyd had no chance to act until Fletcher's time in 1693. He became a member of Assembly about three weeks after Fletcher began his rule. Fletcher made his Council still more powerful than before and this was the signal for popular power to put forth its supreme effort.

Lloyd led this effort; and, led by him, in the clash of powers, the Assembly boldly determined on a petition of popular rights. The result of this move, so far as the Legislature was affected, was that the lower house acquired the unquestioned right to propose and initiate legislation (1 C., 424). But the chief work necessary to make the Legislature a department of co-ordinate chambers lay in recasting the Council. This Lloyd partly effected by insisting on a provision in the charter of 1696 (Sec. 10) requiring Council and Assembly to confer on legislation. And the two houses did confer numerous times both before and after 1696, of which the records give ample evidence. Yet the complaint became current that the Council were an arbitrary body and considered themselves a strong right arm of the Proprietor rather than a friend of the people, so much so that Penn declared the impression was wrong, and that Council were the people's representatives as much as were the Assembly (1 C., 596).

But there was no method of curbing the Council except by eliminating it from the charter and establishing it upon a different foundation, such that it could not and would not attempt to be superior to the Assembly. David Lloyd and others early in 1701 drew up and signed a petition of complaint upon this point and demanded such a disposition of the Council, together with other complaints, against the old charter of 1683, which was again in force since the arrival of Penn from England (1 V., 144). Then we next find Lloyd on the "draft" of the new charter or "scheme," as Penn calls it, in September, 1701 (1 P. & L., 54); and about the same time, Penn begging Logan to dispose Lloyd to a proprietary plan (1 P. & L., 53). But begging was of no avail. The Council had become arbitrary, and it was doomed by the determination of the popular party, led by Lloyd. James Logan says of Lloyd's attitude toward the Council that "He aimed a home blow at the charter" (1 P. & L., 99). Governor Evans also complained that

David Lloyd aimed, in 1701, to "take the whole power in matters of government out of the hands of the Governor and lodge it in the people" (2 C., 325), and establish a government like a republic. James Logan, whose views were directly opposed to Lloyd's on the subject of a Legislature, bemoaned that the charter in that respect had no strength (2 P. & L., 9); but it was also said the old charter of 1683 was fit only for Quakers, and the new inhabitants demanded it should be set aside, in helping to do which David Lloyd showed his progressive spirit (2 P. & L., 9). Finally, Lloyd is almost directly accused by Logan of being the leading spirit in striking down the overbearing power of Council, in framing the new charter of 1701, saying that the charter so drawn up gave Penn great uneasiness (2 V., 420); and that he agreed to the omission of a Council from the charter and resolved to supply the defect in another manner (2 V., 420). But the new charter of 1701 recognized that there should be a Council to advise in legislation with Assembly and in section 2 provided that "Governor and Council" may change the place of meeting of Assembly and in section 6 that no one shall answer any matter touching property before the "Governor and Council" (2 C., 56 and 59). But while these two inferences recognize that there shall be a Council, there is no Council established nor provided for in the new charter, as there was in the old one. Penn, however, proceeded the same day he signed the charter to establish a Council by a separate instrument (basing his right to do so on the powers in King Charles' royal grant to him) to consult and assist with their best advice in all matters relating to government (2 V., 421). And Lloyd as well as everybody else in Pennsylvania recognized this Council as one of the legislative houses during twenty-five years, which is amply shown by the fact that many and many times the two houses met in conference on the passage of laws and other matters of legislation, of which the records report numerous instances.

Penn having erected the Council as just stated, he made it a stipulation in his commission to Andrew Hamilton, to Evans, to Gookin and to Keith, that they should obey the Council (2 V., 421). And in the case of Keith, he put him under £1000 bond to obey. The character and scope of this Council were the questions which Logan, Lloyd and Keith were to thresh out from 1724 to 1726. In Keith's latter days his strong favoritism for the popular side and his disregard for the Penns and their interest brought on the acute stage. All Governors before him leaned strongly toward the Proprietor's interest; but Keith knowing his salary came from the Assembly, obeyed their every wish and wholly disregarded and ignored his Council.

Hannah Penn sent instructions to Keith that his acts contrary to the direction of his Council are void, and that he has no power to pass or to veto any act unless the Council instruct him to do so. Keith replied that neither Penn in his life nor his widow or heirs had any right to instruct him, because by being Deputy Governor he had the full power to act in legislation; and no part of that power, for the time being, remaining in the Proprietary,—that when he, the Governor, passed a law it was not in the power of Penn or his heirs to annul that law nor to give him any orders; and in this the British Government sustained him. And thus, argued Keith, that if he did not need obey the Penns he did not need obey Council, a creature of the Penns.

James Logan undertook a defence of the Council and tried to show that it was a predominant legislative house that could command the Governor to follow and obey its will (2 V., 420). He said the Governor could make no speech, send no written messages nor pass any law without Council's consent and direction. Keith had asserted that this interfered with the rights of the people. Logan said the Governor is not able to act prudently without the orders and assistance of a Council and especially must not take his advice from Assembly, as they are countrymen and cannot

safely be entrusted with the whole power of lawmaking. Further, Logan said that Pennsylvania was the only colony (since in the charter of 1701 the Council was dropped) of the twelve that did not have a legislative Council established in its Constitution (2 V., 422); that this was Lloyd's evil work, by getting the people to believe a Council destroyed their "privileges"—that then Lloyd seemed to be satisfied seven years until now his latent spirit of antagonism is again aroused, and if not watched it may be again blown up into another frame or charter (2 V., 422). Logan continued and said that in England both Houses of Parliament must pass an act as well as the King before a subject can be bound, and that from that great plan all the governments of the King's plantations, except Pennsylvania alone, are modeled and in all of them the Council board bears the same resemblance to the House of Lords and Privy Council that the Assembly does to the House of Commons—but we are made the only exception; and in this are unlike the mother country. But, says Logan, whose interest it was to be free from restrictions and to make the business of a Council only to meet as witnesses of the Governor's acts could be easily seen. He, of course, meant Lloyd and his party. This defence of Council by Logan was delivered in 1725. To James Logan's defence of the Council of which he was a member (and from which he and three others resigned because Keith ignored them) Keith filed a long and able reply showing that the Council had no power to curb his action as an independent executive (2 V., 433).

A short time later David Lloyd, also taking Keith's view of the scope and powers of Council, presented to the Assembly his "Vindication of the Legislative Power of Pennsylvania" (2 V., 444). He first showed by citing legal authorities that whenever the Proprietary appointed a Deputy Governor he divested himself of all power to interfere with the acts of the Deputy or Governor, and could not further instruct him or make him an underling to Council.

Speaking of Logan's view of the Legislature, Lloyd says (2 V., 446) Logan "would seem to applaud English government by Kings, Lords and Commoners, supposing that to be the plan by which the plantation governments are modeled, and from this or his conceit of his own scheme he undervalues the present frame of Pennsylvania's government, in which the Proprietor of good purpose and full intent lodged the powers of legislation in the Governor and representatives of the freemen in General Assembly." Then Lloyd proceeds and says the Council is taken notice of in the charter to some purposes, but not to share in the legislative power, and yet "no one is against their advice and sentiments on bills brought up to the Governor, and they have such power to meet, confer and advise in legislation."

In September, 1725, James Logan, in a pamphlet called the "Antidote" (Api .064, Hist. Soc.), replied to Lloyd, saying that in his "Vindication" of the Legislature, Lloyd shows himself no patriot, but rather makes himself dishonorable to the Government; that it always was an old "nostrum" of Lloyd's that Penn could never pass a law without the consent of the people, and thus Lloyd held a Council had no authority to meddle. But, said Logan, the legislative grant by King Charles to Penn is in the same words as in the King's grants in all other American Colonies, and Council was never attacked in any of them—that in our grandfathers' times the Council was allowed legislative power here—that the Assembly did not call on Lloyd to aid them with his "Vindication," but he volunteered it—and that his twelfth paragraph closing with a sting in its tail for Logan, is jargon and has no meaning at all except this, that in all governments where the Council has a negative there is more danger of arbitrary power in one person from two checks than from one.

What David Lloyd considered of the highest importance in the legislative department was that the executive department should be independent of and not be in the iron

grasp of the legislative. He stood for independence of the three departments. He would not have the judiciary become corrupt by being in fear of a Governor having power to appoint and remove Judges at his own pleasure; and he would not have the Governor controlled by the upper legislative house, exercising the power to say that the Governor should not veto any bill which they approved nor do any act without their direction, because that would cripple the Executive and destroy both the independence and co-ordination of the departments of government. He did strike the Council out of the Constitution of 1701 as a legislative chamber, but he did not contend that there could be no Council in the Province. He meant Penn should establish Council by virtue of the powers in King Charles' patent; and in his "Vindication of the Legislature," in 1725, he freely agreed that Council could advise on legislation and could meet Assembly in conference on the same, but they could not vote to bind and stifle the Governor. He thus believed in a bi-cameral Legislature, but he would not allow the upper house to become dangerous nor to gain power to set itself in opposition to the people's will represented in the lower house—he always contended that our legislative houses differed relatively from the two houses of Parliament—he was accused of making Pennsylvania the only colony that did not allow Council to have transcendent legislative powers and he admitted it—and taking it all in all he showed a wise foresight in guarding against the dangers sometimes seen in modern days, growing from giving the upper house too much power, especially when they are constituted in a different manner than by direct vote and are not strictly the common representatives of the people. And when we glibly say that all our modern State Legislatures are modeled after the Federal Congress and that Congress inherited its character from Parliament as the great original, it behooves us to consider whether partly our federal legislative department did not at its birth make up some of its character and

powers from good points found in the legislative establishments of the provinces, of which Pennsylvania furnished a considerable part.

*VI.—David Lloyd, Father of the "Affirmation."*

The history of the simple affirmation as we know it to-day is long and interesting; and few persons ever think in the great multitude of instances upon which they "affirm" of the long struggle and turmoil through which our forefathers fought to secure inviolable the right to avoid invoking the holy sacred name of Deity in their solemn attestations and other acts; and the sanction with which they bound them.

Penn, by his first laws, agreed upon in England, provided that witnesses should give their testimony by solemnly promising to speak the truth (B. of L., 101). And the same was provided in the Great Law passed at Chester (B. of L., 116 and 122).

In the year 1689, an Act was passed by Parliament allowing those who, by reason of tenderness of conscience, would not swear, to take an affirmation (1 V., 65); but this affirmation was in the form, "in the presence of Almighty God," and this, to the Quaker, was in substance an oath.

The right to take an affirmation, in all cases, instead of an oath, was strictly insisted upon and inserted in the fourth section of the Charter of 1696, and Lloyd was a principal power in the formation of this charter (1 C., 507). In 1700 the question was up again, and Lloyd advised that the affirmation was sufficient in all cases (1 C., 599), and it was so enacted (2 St. L., 39 and 133); and though he was dropped from Council, yet he drew the Affirmation Act of 1700 and 1701 (1 C., 617). Lloyd also had inserted in the first section of the great Charter of 1701 the privilege of an attestation instead of an oath (2 C., 57).



Then came the Royal Order in the Privy Council, January 21, 1702, requiring an oath or affirmation invoking God to be taken in all cases, and the Assembly yielded to it for a time (1 V", 6).

In 1703, Colonel Quarry, the English Admiralty Judge, holding Court in Pennsylvania, demanded that an oath be administered to him; but the Quaker Judges said they could no more *administer* an oath than they could *take it* (2 C., 89). In October, the same year, David Lloyd, as a member of Assembly, brought the question to a head by advising Assemblymen not to take the affirmation, using the name of God as prescribed by England, but to insist on taking the old Assembly form, of simply promising to do his duty (2 C., 10 and 107). In 1704, Lloyd and others were a Committee to draw an address, begging William Penn to allow the simple affirmation (1 V", 15 and 16). Finally a law was passed granting this relief (2 St. L., 266); but it was struck down by England because it extended to criminal cases (2 St. L., 509 and 519). The principal brunt, in the passage of this affirmation law and of the debate, to show its reasonableness, was borne by Lloyd and three or four others (2 C., 226-27-28 and 229). They were also the Committee to amend the former law, struck down by the Queen (1 V", 53). In 1711 another Affirmation Law was passed, patterned after the former law, drawn by Lloyd, omitting the name of the Deity entirely (2 St. L., 355).

That fall David Lloyd, again elected to Assembly, refused to qualify, except by the old affirmation, omitting the name of God (2 V., 106), while all others were willing to take the affirmation invoking God. He so ably defended his stand that he convinced the Assembly he was right and was so qualified, after holding out two months (2 V., 107).

The Queen next struck down the Affirmation Act of 1711 (2 V., 357) because it omitted invoking the Deity (2 V., 540).

In January, 1715, David Lloyd reported that he had drawn, among others, a new Affirmation Act (2 V., 164), which was passed May, 1715 (3 St. L., 58); but it was repealed in 1719, because the name of the Deity was left out of it (3 St. L., 441 to 458, and 465). During the continuance of the Act an event arose which called the Act into disfavor. Judge Hayes, of Chester County, was murdered by ruffians, in 1716, and the murderers were tried and convicted. Friends took their case to England and complained they were tried without oaths (2 V., 333). Lloyd and others were made a Committee to address the King, protesting that an affirmation is as valid and solemn as an oath (2 V., 235); but the Act fell. After this brutal murder Lloyd was appointed by Assembly to draw a law putting the most severe penal laws of England in force here and he called it the Act for the "Advancement of Justice" (2 V., 234). It was passed May 31, 1718, making a long list of crimes capital felonies, punishable in different horrible, cruel manners (3 St. L., 199). But even in it Lloyd inserted the stipulation that an affirmation shall in all cases be equivalent to an oath. Strange to say, in this case England swallowed the camel and approved the Act, affirmation and all (3 St. L., 214). But the affirmation in this Act invoked God, and through Lloyd another Act was passed in 1724, omitting the holy name and to be administered in all cases desired by any one (3 St. L., 427); and this England allowed to be confirmed (3 St. L., 431). And after this, in 1739, certain other relief from an oath was granted to Pennsylvania (4 St. L., 337). This, with subsequent Acts, preserved the affirmation until in the first Constitution of the Commonwealth of 1776 the spirit was caught up, and planted deeply in our fundamental law, and an affirmation, in all cases, was and henceforth has been, recognized as of equal solemnity and dignity with an oath. And the early struggle to secure this victory was championed by David Lloyd, leader of the Quaker Assemblies, in the formative period of the Province.

*VII.—David Lloyd, Author of Laws.*

We have shown that Lloyd was largely the author of that part of our early fundamental law represented by the Constitution of 1696 and 1701—author of the affirmation laws, etc. We beg now to show briefly what other important laws he drew, some of which are in force to-day. Among these are: The form of warrants, the law against Judges sitting in interested causes, the law of taking land in execution (see 2 St. L., 1 to 148); the Sabbath law (2 St. L., 37 to 39; 143 to 144, and 175) in force in its entirety, until partly repealed by the penal Code of 1860 but otherwise in force to this day (78 Pa., 473), on which it was laid down 90 years ago that Christianity is part of the law of the land (11 S. & R., 394); the law against incest and marrying within certain degrees (2 St. L., 143 and 179), in force until penal Code of 1860 re-enacted it by exact transcript, and in force to-day, except as changed by Act of 1901 (P. L. 597); the law simplifying ejectments and getting rid of color and fictions; the law curbing quit-rents and securing purchasers' rights in their properties (2 C., 262); the law extending and making new effective proceedings in foreign and domestic attachment, fixing the practice as to garnishees (2 St. L., 27 to 144, and 231), wholly in force until partly supplied by the Act of 1836 (P. L. 580 and 606), and otherwise in force to this day (164 Pa., 533); the law allowing Justices of the Peace to hear and determine actions for 40 shillings or less, instead of being compelled to proceed in Common Pleas for the same (2 St. L., 43 to 144, and 189); law making lands assets to pay debts in decedents' estates (2 St. L., 51 and 145); the liquor license law in the Judges (1 V", 66 and 67); the law of procedure as to obtaining judgment by default (2 St. L., 128); the defalcation law making defalcation, formerly voluntary (3 Bl. Com., 304), now to be compulsory (2 St. L., 241), which Act is in force to-day (101 Pa., 452 and 205 Pa., 166); the law of

limitation of actions (3 St. L., 12), still in force in 1895 (204 Pa., 504), and partly recognized in force in 1906 (215 Pa., 143); the Act of 1715 for acknowledging deeds and mortgages, still in force and stated by Chief Justice Mitchell, in 1899, to have substituted a simple deed of bargain and sale for feoffment, and of the same effect when acknowledged and recorded, and also substituted alienation of a married woman's land by fine and recovery; the Act as to *feme sole* traders of 1718, recognized by the Act of 1855, by extending it to deserted wives, and as so amended in force to-day (218 Pa., 29); the Act of 1718, before mentioned, to put the British penal Code in force here, remaining partly in force down to modern times (3 St. L., 199); the Act of 1725, not allowing a *capias* in case of a defendant having real estate, still in force (6 W. N. C., 253); the Act of 1722, giving the Supreme Court powers of all remedial writs, preserving the common law practice (as Justice Mitchell said in 1901), until the Act of 1836 took it up and preserved it to this day (199 Pa., 161), and which power has been numerously lauded by our Supreme Court as being the foundation of modern practice in certain respects as noticed by Sharswood, J., in 1868 (57 Pa., 452). All these Acts and more David Lloyd drew or helped to draw as is shown by the records which we have cited, and by the payments he received for drawing them (I V", 84, 125 and 275). And they furnish both foundation and framework for modern Pennsylvania.

*VIII.—David Lloyd, Digester of Statutes.*

Nor did Lloyd perform a mean service in his labors to digest the laws of the Province into a compact volume or form, under logical heads and alphabetical and chronological titles, sifting out the repealed, expired and annulled ones. But he did more than digest our laws; on one or two occasions he codified them. And this, too, is constructive work

and renders the laws more efficient. The greatest modern benefactors of the lawyer are the men who compile the exhaustive digests of our day, a work which has in large part substituted text-book writing.

Lloyd's first labors on this task were in 1693, when he led his Committee in sifting out the 105 old laws from the entire mass, which he insisted Fletcher should save from his general order nullifying our statutes. His next work was that of 1700 and 1701, when he was employed by both Assembly and Council to draw the first legal Code of the Province, to put it in operation under the new charter of 1701; including our rights in government and in property, which he did in a list of 106 statutes so well covering all the needs of the Province that he was able to suggest and have passed a general repealer, striking off the books all other laws except the Code, which he then compiled (2 St. L., 1 to 148). In 1713 there was delegated to him the task of collecting all the laws and bringing a list of those repealed to the Assembly, with suggestions as to what new ones were needed, which task he executed (2 V., 125). The next year he was again assigned the task of making a written copy of all the laws in force (2 V., 153). In 1719 he was again ordered to make up a digest of our laws (3 V., 11); and Bradford, in 1723, was directed to print them into one volume (2 V., 388). And in 1727 the Assembly referred to Lloyd the question of revising the laws of the Province, and he gave them to understand that he had been on that subject some time, and that he expected to complete the same to the year 1719 in a short time (3 V., 11). A little later he delivered to Assembly the observations he had drawn up on revising the laws (3 V., 15), and a Committee to peruse the observations reported they very much approved the great pains and care Lloyd bestowed on the subject and recommended the laws as he had digested them to be printed in one volume with an index (3 V., 16 and 17). And he crowned this department of his constructive labors for Pennsylvania the

same year (1727) by drawing, with the assistance of Andrew Hamilton ("the day star of the Republic"), the first complete set of Equity Rules for the Province (3 C., 266).

*IX.—David Lloyd in Pennsylvania Jurisprudence.*

The subject of Lloyd and the jurisprudence of early Pennsylvania originally intended to be included in this paper, must be eliminated from it, because the subject will make the essay too long; and also because the material from which that subject must be written is not now accessible. The body of decisions which Lloyd as Chief Justice of the Supreme Court assisted in pronouncing, during his incumbency from 1718 to 1731, are only to be found in a "Docket of the Supreme Court" extending from 1708 to 1731, or about those dates. And that docket, until about a year or two ago, was lost and was only brought to light by Hon. B. Alva Konkle, who found the same at Media. It was brought to the Prothonotary's office of the Supreme Court, but at present is not accessible, and I have not been able to get a glimpse of it. It seems to be kept in private safety under the personal supervision and care of the Prothonotary. From the decisions of the Supreme Court of that day, as preserved in that docket, Lloyd's leaning as a constructionist, must be studied and made up. And it remains yet to be seen whether the Province of Pennsylvania had a miniature John Marshall at the head of its judiciary in its formative days, as our nation had the original; and generally, whether in the term of Lloyd's incumbency, a list of decisions were handed down that will throw any light on the judicial interpretation of early institutions in our Province and show us whether by judicial construction the Constitution and statutes of the Province were expanded and a body of our own common law built up, whose force was projected into and made a part of the later provincial life. There are no reports of cases decided by that Court extant prior to 1759, the date

of Hyam vs. Edwards, reported in 1 Dallas, p. 1, as the excellent work of Judge Pennypacker (Pennypacker's Provincial Cases) only extends down to the year 1700.

*X.—David Lloyd's General Views of Government.*

Before all else David Lloyd had a firm faith in the common people. His own words on the subject, written in 1725, are, "According to my experience, a humble man, of small interest devoted to faithful discharge of his trust and duty to the Government, may do more good to the State than a richer or more learned man, who by his ill-temper, and aspiring mind, becomes an oppressor of the Constitution, by which he should act" (2 V., 446). And this same sentiment he surely held during a whole third of a century before that date. He showed it in 1693 against Fletcher—he showed it in 1700 against Penn and Britain—he showed it in 1707 against Evans when he was charged with aspiring to substitute the republican form of government, with all power in the hands of the people, for the monarchical (2 C., 325); he showed it later most stingingly against Logan and all the proprietary family and adherents; and he asserted it until he died. Not only did he contend that the common people should have full and free control of the government and their privileges; but also that they should have the same general rights as to property, and that Penn should be compelled to dispose of land to them as freely as to grant them liberty (1 P. and L., 144). James Logan feared Lloyd very much, and in his correspondence with Penn shows much spleen against him. Lloyd won Deputy Governor Andrew Hamilton on his side (1 P. and L., 207), and also Governor Keith (2 V., 444), but could not swing Evans and Gookin. By 1703 he compelled Logan himself to admit his superior generalship (1 P. and L., 246). Lloyd's zeal for the common people of the Province was so great that in 1704 in a very

irregular manner he drew up a bitter invective against the proprietary theory generally and its interference with the common people's "privileges," as he called them; and in an underhand way, as Speaker of the Assembly, made it appear the act of the Assembly by writing the minutes of its passage himself, when Assembly was not in session (1 P. and L., 329 and 338). And he showed so much power in leading the Assembly of 1704 as he wished, that James Logan wrote to Penn, saying the Assembly will not allow the Governor and Council the power of dissolving, proroguing or dismissing them for a time or to adjourn them, but claim the privilege of sitting at all times as they see fit, like the Cromwell Parliament of 1641, which they nearly imitate (1 P. and L., 344). Penn also, the next year, wrote of Lloyd's three preposterous bills which did not pass, all in favor of the common people (1 P. and L., 375). In 1709 Logan again asserts that Lloyd was an enemy to the proprietary interests (2 P. and L., 381); and about the same time he laments that if what David Lloyd and his Assembly insist on is carried out, the Government of Pennsylvania, "that image of monarchy, derived from its original and glorious fountain at home, in the British Constitution, which has been maintained in all the dominions of that kingdom abroad, must necessarily decline into a state very little, if at all distant from, a democracy" (2 P. and L., 365).

In this remarkable paper Logan continues to tell us Lloyd's views of the Government and to lament it. He says if Lloyd's views were to prevail fully, "the authority with which the Governor is clothed by the Crown, would in reality be devolved upon the people," and that Lloyd and his adherents seem to think "that England never so truly knew liberty as when some there proceeded so vigorously in rooting up grievances that with them they rooted up the royal family, and afterwards made themselves the greatest grievance England ever had," and that Lloyd's party "want the people to be invested with the sole power of legisla-



tion" (2 P. and L., 365). Further Logan says of Lloyd and his supporters that, "some among us have tried to bring about an unfortunate revolution by discarding the Council, that slender type of monarchy yet among us" (2 P. & L., 366). This was in 1709. But at the end of 1724 Logan continues to complain of Lloyd's republican tendencies, saying, "some persons by specious pretences to betray honest men into their measures have objected to it (a check upon the Assembly) as an interference with the popular privileges" (2 V., 422), and that "it requires no great penetration to discover whose interest it is, to be free from all restrictions" (2 V., 423). All those impeachments, Lloyd admits without any sting of shame in 1725, and says that his view is the same as that of Governor Keith's, viz.: that a free and unfettered power of government in Pennsylvania is and ought to be in the hands of the people (2 V., 444); and that he fully agrees with the doctrine Keith laid down February 6, 1725 (2 V., 427); and that any other view would render the people's power, especially in legislation, useless (2 V., 446) and bring this Province from a state of freedom into an arbitrary government, subjected to the power of one person and that it is no credit to Logan to applaud English government by Kings, Lords and Commons, for that is not the plan by which our government is modeled (2 V., 446).

In September, 1725, Logan makes a bitter reply to Lloyd's vindication of his views of the Government in his "Antidote" (Api .064) and says in substance that while Lloyd's great pretensions of believing in the common people may be genuine, his influence is wrong and dangerous—that no Parliament was ever more regularly convened than that of 1640, and yet all men condemn their excessive abuse of power, and no Assembly was more duly elected than that of 1709, yet the country at their next chance showed so entire a dislike of their proceedings against the Proprietor, that they were all turned out to a man; that popular

power is crushing the Constitution, and Governor Keith, Lloyd's great idol and the pretended Grand Apollyon of the country's peace, has now given it the fatal blow.

*XI.—David Lloyd, Patriot or Agitator?*

We must now conclude whether, in all the above activity, effort and endeavor, David Lloyd was really patriot or simply agitator. But before we can fully pronounce upon his public life, we must notice one or two other events which help to define his true relation to his beloved Province.

He believed that Pennsylvania was entitled to certain autonomy under its charter. And he was patriot enough to invite it to act up to the full measure of such independence. His doctrine was that Acts of Parliament did not ordinarily bind us and we could act independent of their regulation. He was determined to test the point. Because we had passed certain laws on the subject of piracy and tried cases of the same (1 C., 450-496-533, B. of L., 268 and 284 and 2 St. L., 100), he held the British Acts of Trade and Navigation had no operation here; and in 1698, when Colonel Quarry seized the goods of a shipper named Adams by a process out of the English Admiralty Court set up in Pennsylvania, because Adams did not have a proper license. Lloyd advised Adams to issue a writ of replevin out of the Common Pleas Court of Philadelphia and take the goods from the British marshal's hands, which he did, in defiance of England, asserting that this foreign Court interfered with our own Courts (5 Pa. Mag. of H. and B., 177, and 1 C., 545). This foreign Court pretended to exercise powers far transcending our Provincial Courts. Quarry complained to Governor and Council about this matter (1 C., 541-546), and the goods were restored to the marshal. Then David Lloyd advised Adams to sue Webb, the marshal, for taking the goods, and he did so, but the Court decided in favor of the King. Lloyd was so convinced that he was right

that he begged Penn to allow an appeal to England, declaring his willingness to go to Westminster himself and plead the case in the interest of Pennsylvania, as well as that of Adams, and at his own expense; but Penn, remembering the unfortunate days of 1693, would not allow it (1 P. and L., 18).

Lloyd not only felt the justice of his client's cause and the cause of Pennsylvania's right to Courts independent of Great Britain, but he was so full of contempt for English interference with our local affairs that he grossly ridiculed the King and his Admiralty in pleading Adams' case in which he had sued Webb; and when the English custom officer's commission, with the King's effigy and seal attached, was offered as the marshal's justification for seizing the goods, Lloyd said after taking the commission and seal in his hand, "What is this? Do you think to scare us with a great box (the seal in a tin box) and a little baby (a medal of the King)? 'Tis true, fine pictures please children, but we are not to be frightened at such a rate." And he made many more gross and reflecting expressions on the King; and afterwards publicly declared the Court had no jurisdiction in Pennsylvania and later in Council asserted that whoever held the Admiralty Court to be legal here was a greater enemy of the American liberties and privileges than those who were guilty of the ship-money tyranny in the time of Charles I (1 C., 603 and 604).

But such was Lloyd's patriotism for Pennsylvania and for America that when in Council, Penn, by mildness and moderation, took Lloyd to task for his indignity to the King, pointing out the danger to which it exposed Penn and the Province, he became very indignant that the matter should come up in Council and "resolutely defended all that he had done and highly opposed Penn." And as usual, on this occasion, says Logan, he showed himself "very stiff, extremely pertinacious and revengeful," and that as Lloyd "never knew what it was to bend," so on this occasion, "he

declared he was willing to go to Westminster Hall to plead this cause." But Logan says he was a man "of sound judgment and a good lawyer" (1 P. and L., 18).

After all this Pennsylvania need not feel that she was backward in the cause of American liberty, nor yield to New York and the famous Zenger trial the palm and place of first moving in the interest of liberty. And very properly indeed should our Pennsylvania hold the grand old "Cradle of Liberty."

Though Lloyd was at the same time Attorney-General (1 P. & L., 18) he declared he would not "put anything in suit for the King and frequently declared that he did not serve in this capacity for the King, but only for the Province" (Penn Papers, 56). He was a true republican, born out of time—fifty or seventy-five years in advance of democracy. He believed in Pennsylvania with all his soul. He declared in 1707 that those who opposed the rise of popular power in Pennsylvania would find they "do as it were but gnaw a file which will break their teeth ere they prevail against it" (2 C., 338); that a Court established in Pennsylvania by any power but by the people, instead of opening "a current of justice, would unstop a deluge of oppression and overwhelm the people" (2 C., 291); he admitted having a hand in the liberal charter of 1701, but he says that better than that, the people of Pennsylvania were entitled to one yet more liberal, which he drew and which Penn never executed (2 C., 293); and he ever declared that, on a real test, it would be proved we were to such extent independent that Acts of Parliament did not reach us (2 V., 202, and 3 C., 36). His "fine Italian hand" was seen in everything that tended toward the people's power, and he was the first Grand Old Commoner of our Province.

He hated concentrated power. Though he descended from kings, he deplored and detested kings; though in his veins cruised and coursed the blood of kings, yet in every fiber of his being he felt the curse of kings. He

was in public life about half a century, and yet barely a score of letters from his hand are extant to-day, while of Logan's there are hundreds. Lloyd made his writings matters of record, and wrote no useless letters. He was the forerunner of Pennsylvania's and even of America's liberty, the worthy associate of the younger Hamilton, the "day star." In all the galaxy of Pennsylvania's mighty men of old, he deserves a central place; and in the silent solemn courts that look down from our Keystone's Hall of Fame, he deserves to sit as first great Chief Justice.

He was a man of large capacity and power. In the forum he was palestric, yea gladiatorial. His constructive genius was felt in all the lines of political public activity. Though his record is largely hid in ancient books and dockets, much of the force of his life is living in the blessings and institutions which safeguard our rights and liberties to-day, while the generations of Pennsylvania for one hundred years have been unconscious of it. He has made good the declaration which Logan says he frequently announced, "that when dead he yet would speak" (Antidote).

Great, stout heart of David Lloyd! Would that modern days had more true men of his majestic, fearless, patriotic mould. David Lloyd, strange mingling of smile and frown—of tenderness and tempest—of kindliness and will—of mild soft gentleness and stern stiff justice—of love and loyalty; hatred and scorn. David Lloyd, advocate, legislator, councillor, statesman, Judge and justice, all nurtured in the breast of a man for the good of the common people and the liberty of a race. David Lloyd, patriotic memory in sweet repose as a just reward for years of trouble, turmoil, trial; strife and struggle and victory, for the restless spirit that scarcely ever slept in life; some day a grateful people, pricked with the sense of tardy justice and recognition will go, in grand procession, led by the inspiring strains of melodious music, dignified by exalted personages of state, of pulpit, of the Bar, of the Bench, of business and of finance—

proclaim him an apostle of the common people, the common liberties and the Commonwealth,—rear upon the modest little mound above his mortal dust a stately monument; and inscribe upon its four fair faces the long glorious records of his deeds for a people born and destined to be free. And ever afterwards with full and overflowing hearts, generations present and yet to come will shower blessings like the gentle rain of heaven upon the sacred sod above his mould, and keep forever green the grassy draperies of his dreamless bed.

### EXPLANATIONS

M. H. C. means Martin's History of Chester.

K. P. C. means Keith's Provincial Councillors.

P. and L. means Penn and Logan Correspondence.

P. P. C. means Pennypacker Provincial Cases.

B. of L. means Duke of York's Book of Laws.

St. L. means Provincial Statutes at Large.

C. means Colonial Records.

V. means Votes of Assembly.

V" means Votes of Assembly, Part 2.

"Antidote" means Logan's Reply to Lloyd's Vindication.

Api .064 means the designated number of Paper in Historical Society.

**"THE LADIES"**

Speech of JOHN W. HALLAHAN, 3d, Esq.

at Banquet of the Pennsylvania Bar Association  
June 30, 1910

(See page 348 of this volume)

I can hardly picture a predicament more appalling than the one in which I find myself at this minute. The sensations of a mere man, and a rather young one, summoned to his feet at such a gathering, and authorized to utter such thoughts as he may think becoming upon the subject "The Ladies" cannot be other than those of unrelieved alarm and awful trepidation.

From any angle, I can see dangers dire and threatening in my path. Were I, for instance, to here enter of record the admission of a secret, jealously guarded by men, to the effect that we are constantly more dominated by the sister sex than by any other agent in human life, I should at once be branded a renegade by my fellows, and become known among them hereafter as an "undesirable citizen;" if, on the other hand, I should be rash enough to try to pretend that we are not so dominated, every individual here would immediately recognize that I was conscious of vain-glorious, idle boasting, and taking unfair advantage of the fact that no defence would likely be entered. If I am tempted to yield to the temptation to grow sentimental, my mental ear is straightway assailed by a pronouncement reverberating from far across yonder ocean, and impressed with the "dixit" of the foremost extant authority upon everything in general, declaring that "sentimentality is the most broken reed on which righteousness can lean." In a word, I feel myself in a position not unlike that of an old man of the Emerald Isle, who, being told that his last hour was approaching, sent for the clergyman. To a question whether he wished to depart



JOHN W. H. .



THE LADIES'

W. HALLAHAN, 3d, Esq

the Pennsylvania Bar Association

June 30, 1919

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the other, the older one came at her, growling, then growling at her, and then at this minute, of the sense of the old one, the other young one, summoned to the gathering, and authorized to utter such words as he might see fit, began upon the subject: "The old one, other than the sort of raised alarm and"

of my own life, I am seeing dangers close and threatening me from every side. For instance, to have entry of record into the city, I must be constantly guarded by men, to the neglect of my duties, and I am already more dominated by the sister state than by my own agent in human life. I should at once be known and recognized by my fellows, and become known and recognized as an "undesirable citizen." If, on the other hand, I should be rich enough to try to pretend that I was not so constrained, every individual here would immediately recognize that I was conscious of my glorious, noble position, and taking out an advantage of the fact that no one would likely be concerned. If I am tempted to yield to temptation to grow sentimental, my mental ear is constantly assailed by a proclamation reverberating from the Atlantic Ocean, and impressed with the "dixie" of the South, and rant and rant upon everything in general. "Sentimentality is the most broken reed on which a business can lean." In a word, I feel myself in a predicament that of an old man of the Emerald Isle, who his last hour was approaching, sent for his son, and asked him a question whether he wished to depart.



**JOHN WILLIAM HALLAHAN, 3D**



in peace, he responded, "I do." "And you are sorry for your sins?" "I am." "And you renounce the devil and all his works and pomps?" He paused, and replied, "Well, father, I am in a very doubtful position, and I don't want to make any enemies."

And then, when I consider that I have been asked to respond to the toast, and with a knowledge of my inefficiency, question the reason why, I am reminded of that story of the two Irishmen, who, being unable to obtain employment, enlisted in the British Army, and were straightway placed in the awkward squad, where they were made to work very hard in the drill. At the expiration of an exhausting day, the captain in charge noticing their general slovenly position, drew himself up before them, spick and span in his uniform, and straight and orderly in his manner, and with an effort to inspire enthusiasm, spoke of the Queen, and the glory of the empire, and then drawing forth his sword said, "Men, why are we here in the service of the Queen?" In the silence that ensued Pat was heard to say to Mike, "Bedad, Mike, the man is right, why are we here?"

But there are so many examples of devoted womanhood, and so many results from her inspiration, that I take courage.

In literature woman has been the inspiration of the sweetest fancies; her beauty, her charm, her loveliness, have given to poetry its richest laurels, from Anacreon to the surpassingly brilliant constellation of which Petrarch was the central sun.

Not without deep meaning does James Whitcomb Riley make the little boy say:

"I've got the hives and a new straw hat,  
And I've come back home where my beau lives at."

And in every shade of our joys and sorrows, as shown by this delicate insight of the poet Riley, until the most pro-

found and deepest feelings are touched, does woman figure in our lives.

What grander tribute to womankind can be found than in the letter written by our sweet and kindly martyr President to Mrs. Bixby, of Boston:

"DEAR MADAM:—

I have been shown in the files of the War Department a statement of the Adjutant General of Massachusetts that you are the mother of five sons who have died gloriously on the field of battle. I feel how weak and fruitless must be any words of mine which should attempt to beguile you from the grief of a loss so overwhelming. But I cannot refrain from tendering to you the consolation that may be found in the thanks of the Republic they died to save. I pray that our Heavenly Father may assuage the anguish of your bereavement and leave you only the cherished memory of the loved and lost and the solemn pride that must be yours to have laid so costly a sacrifice upon the altar of freedom.

Yours very sincerely and resp.,

ABRAHAM LINCOLN."

If I could but wish you her virtues I would do well, for such virtues would mean, for a lawyer, steadfast devotion to his threefold duty—to the Court, the client and himself, for these evoke the perfect lawyer.

The occasion is one especially redolent of good will, and I welcome the opportunity, my professional brethren, to offer to you my best wishes for your welfare. I might wish for each of you, glory, honor, wealth, the wild applause of joyful crowds, the glittering reward of duty well performed, the heart-born homage of grateful fellow creatures, the laurel crown of scholarship, the calm enjoyment of completed fame—but were my wish to stop there its realization would leave you poor, indeed. I should add to it, and gladly do, the hope, which is at the same time a prayer, that each of you may attain, beyond all these things, the supremest gift vouchsafed to mortal man; that all your struggles, achievements, sacrifices, sorrows and joys shall be irradiated, illumined and sanctified by the glorifying benediction of the

love of a loyal wife; one to whom the honor that comes to you is more precious than her own; who thrills with a deeper pride than you would permit to yourself at success, and grieves more than you dare to grieve at your failures; to whom your faults are only the harmless frailties of a wayward boy, and your virtues the mighty strength of a godlike man. You will be fortunate if that partner has been at the same time the ideal of your youth's soaring fancy; you will be still more fortunate if she shall be the faithful comrade of the active years of your vigorous manhood, and the companion and confidante of your maturer, declining years; in a word, the constant, cheering, soothing, sympathetic presence, eager to extend to you the last approval of your deeds, without which the approbation of all others is empty and incomplete; which, like hope, shall "travel through nor quit you when you die," and has power to guard from presumption the hurrying moment of prosperity, and nerve with fortitude the lingering hour of misfortune.

May I compare the realization of my wish for you to the life partner of the gentle old bookkeeper of George William Curtis in his exquisite "Prue and I." You will remember that, gifted as the kindly old gentleman was, with the heart of a boy and the imagination of a poet, longing always to see the storied lands beyond the seas, which lured him with their perennial mystery and charm, but acknowledging with beautiful, cheerful resignation that he could only enjoy them in imagination, because, being an old bookkeeper he should never take but one other journey than his daily beat—he comes at last to say, as I recollect it, "For my part, I do not believe that any man can see fairer skies than I see in Prue's eyes, nor hear sweeter music than I hear in Prue's voice, nor find a more heaven-lighted temple than I know Prue's mind to be. And when I wish to please myself with a lively image of peace and contentment, I do not think of the Plain of Sharon, or of the Valley of Enna, or of Claude's Pictures, but feeling that the fairest fortune

of my life is the right to be named with her, I whisper to myself gently, with a smile—for it seems as though my very heart smiles within me when I think of her—Prue and I."

Such is the vision that attends my wish for each of you, that throughout your journey you shall be accompanied by the wisest counsellor, the truest friend, and the most faithful guide that man can know. That hers may be the hand clasped in yours as you begin the gentle descent of the sunset slope, when the battles of the receding years shall gradually have merged into memories wherein the heaviest blow has made no bruise, the fiercest thrust has left no scar. That together you may reach the foot of the slope as the day slowly dies out of the sky, and the dusk comes drifting down; and together upon your whitened brows feel already the cooling breeze which portends the coming of the eternal morning.

**JOHN WILLIAM HALLAHAN, 3d**

From an article by **WALTER GEORGE SMITH, Esq.**  
in *The Catholic Standard and Times*, Philadelphia, July 10, 1910

(See page 348 of this volume)

\* \* \* \* \*

"When the hour for speaking had come each of the chosen orators, in speeches well worthy of the occasion, fulfilled his allotted part. The last to be called upon was a young lawyer who had already made his reputation as a graceful speaker among those who knew him, but to most of the audience on that evening when he arose he was unknown. But when he took his seat he had won the admiration and esteem of every man and woman who had the good fortune to hear him. The orator was John William Hallahan, 3d. His speech was in response to the toast "The Ladies," so rarely handled with good sense and delicacy. In Mr. Hallahan's presentation, however, all was truth and all was delicacy. He made his appeal to the common experience of right-minded men and portrayed with a beauty of diction, a dignity and gentleness of manner, an earnestness of feeling, the influence of women upon the individual and the community; that held his listeners in wrapt admiration. Drawing from a wide reading of history and of the finer literature, he brought his inspiring theme step by step until he enthroned the ideal woman in the centre of her happiest, her truest sphere—the very heart of the family life. Every word indicated how truthfully he had reached his conclusions on the constantly debated and so often misunderstood subject of the feminine influence in life and manners, and as his eloquent sentences gave utterance to his lofty ideals, it could be seen that he was drawing inspiration from the teaching of a revered mother and the companionship of a devoted and congenial wife. Many an eye was dim with emotion when he closed, and on all sides, from men and women, were heard words of appreciation and praise. He bore his triumph with modesty and yet with a natural pleasure. To one who had spoken of the satisfaction his success would give to his father, he said, 'his pleasure will be even greater than mine,' and asked that he be told of the evening's event.

"Within two hours this accomplished orator, this devoted son, this loving husband was dead. His beautiful speech was his fare-



well message. With the kinds words of his friends ringing in his ears, with his heart joyful in the anticipation of returning to his wife on the following morning, he sought a few hours of rest, and by a fatal accident he met his death.

"In the presence of such a tragedy words are inadequate to express the emotions. Young, buoyant, with high hopes for a long, useful and honorable career in the profession he adorned, his great natural talents cultivated to a scholar's fineness, eloquent to an unusual degree, bearing in his manners and language the impress of his Catholic faith, the world will indeed be poorer for his loss. The lesson of his life shines through his parting words. It is one of tenderness and love, and especially for woman, whose influence, as shown in his own life, is next to religion itself, the most elevating and powerful inspiration known to man."

**LIST OF MEMBERS REGISTERING  
AT CAPE MAY, 1910,  
BY COUNTIES**

**ALLEGHENY COUNTY**

AMMON, SAMUEL A.....	Pittsburgh.
BROWN, THOMAS STEPHEN .....	"
CAMPBELL, GEORGE J.....	"
CARPENTER, J. MCF. ....	"
EVANS, J. A. ....	"
GILLESPIE, CHARLES D. ....	"
McCLAY, SAMUEL .....	"
PATTERSON, THOMAS .....	"
SMITH, EDWIN W. ....	"
SMITH, EDWIN Z. ....	"
SWEARINGEN, JOSEPH M.....	"
YOUNG, JAMES S.....	"

**BEAVER COUNTY**

DARRAGH, ROBERT W.....	Beaver.
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**BEDFORD COUNTY**

LITTLE, ALVIN L. ....	Bedford.
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**BERKS COUNTY**

BERTOLET, WELLINGTON M.....	Reading.
BUSHONG, ROBERT GREY.....	"
DAMPMAN, JOHN B. ....	"
DEER, CYRUS G. ....	"
DUMN, HARRY J. ....	"
ENDLICH, G. A. ....	"
FISHER, J. WILMER.....	"
HEINLY, HARVEY F.....	"
HEISTER, ISAAC .....	"
KEISER, HENRY P.....	"
RICHARDS, LOUIS .....	"
RUHL, C. H.....	"
SCHAEFFER, D. N. ....	"
SCHAEFFER, E. CARROLL .....	"
SCHAEFFER, HARRY D.....	"
STAUFFER, RANDOLPH .....	"
STEVENS, JOHN B.....	"
WAGNER, GEORGE W.....	"

**BLAIR COUNTY**

BALDRIGE, THOMAS J. ....	Hollidaysburg.
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## BUCKS COUNTY

EASTBURN, HUGH B. ....	Doylestown.
JAMES, HENRY A. ....	"
JAMES, HOWARD I. ....	Bristol.
RYAN, WILLIAM C. ....	Doylestown.
SWARTLEY, JOHN C. ....	"

## CAMBRIA COUNTY

O'CONNOR, FRANCIS J. ....	Johnstown.
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## CARBON COUNTY

BERTOLETTE, FRED ....	Mauch Chunk.
HEYDT, HORACE ....	"

## CHESTER COUNTY

CORNWELL, GIBBONS GREY. ....	West Chester.
CORNWELL, R. T. ....	"
GAWTHROP, ROBERT S. ....	"
GILKYSON, H. H. ....	Phoenixville.
HAYES, WILLIAM M. ....	West Chester.
HOLDING, A. M. ....	"
REID, ARTHUR P. ....	"
TALBOT, WALTER S. ....	"

## CLEARFIELD COUNTY

SMITH, ALLISON O. ....	Clearfield.
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## CLINTON COUNTY

HIPPLE, TORRENCE C. ....	Lock Haven.
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## CUMBERLAND COUNTY

BASEHORE, SAMUEL E. ....	Mechanicsburg.
BIDDLE, EDWARD W. ....	Carlisle.
LLOYD, WILLIAM PENN. ....	Mechanicsburg.
McKEEHAN, JOSEPH P. ....	Carlisle.
WETZEL, JOHN W. ....	"

## DAUPHIN COUNTY

DULL, CASPER ....	Harrisburg.
HARGEST, WILLIAM M. ....	"
LAMBERTON, JAMES M. ....	"
McCARRELL, SAMUEL J. M. ....	"
STAMM, A. C. ....	"

## DELAWARE COUNTY

DARLINGTON, GEORGE E.....	Media.
GEARY, A. B.....	Chester.
HALL, E. H.....	Media.
ROBINSON, J. ROHRMAN .....	"
SCHAFER, WILLIAM I. ....	Chester.

## ERIE COUNTY

RILLING, JOHN S. ....	Erie.
WHITTELSEY, E. L. ....	"

## FAYETTE COUNTY

ADAMS, J. B. ....	Uniontown.
EWING, NATHANIEL .....	"
HAGAN, A. C. ....	"
HOPWOOD, R. F. ....	"
PLAYFORD, R. W. ....	"
UMBEL, R. E. ....	"

## INDIANA COUNTY

BANKS, J. N. ....	Indiana.
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## JEFFERSON COUNTY

MURRAY, JAMES V. ....	Brookville.
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## LACKAWANNA COUNTY

HARRIS, JOHN M.....	Scranton.
WILCOX, WILLIAM A.....	"

## LANCASTER COUNTY

APPEL, JOHN W. ....	Lancaster.
ESHLEMAN, H. FRANK .....	"
HAGER, CHARLES F. ....	"
HARNISH, M. M. ....	"
HENSEL, WILLIAM U. ....	"
NAUMAN, JOHN A. ....	"
NORRIS, H. M., JR. ....	Columbia.

## LAWRENCE COUNTY

MARTIN, J. NORMAN .....	New Castle.
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## LEHIGH COUNTY

JACOBS, FRANK .....	Allentown.
TREXLER, FRANK M. ....	"
ULRICH, ALEX. N. ....	Catasauqua.

## LUZERNE COUNTY

BEDFORD, GEORGE R. ....	Wilkes-Barre.
KULP, GEORGE B. ....	"
McCLINTOCK, ANDREW H. ....	"
STRAUSS, S. J. ....	"
WILLIAMS, A. L. ....	"
WOODWARD, J. B. ....	"

## LYCOMING COUNTY

CROCKER, WILLIAM D. ....	Williamsport.
EDWARDS, N. M. ....	"
MUNSON, C. LaRUE. ....	"
WATSON, JAMES C. ....	"

## MONTGOMERY COUNTY

BROWNBACK, HENRY M. ....	Norristown.
FOX, GILBERT R. ....	"
LARZELERE, J. R., JR. ....	"
McAVOY, CHARLES D. ....	"
TRACY, HENRY M. ....	Conshohocken.

## NORTHAMPTON COUNTY

FOX, EDWARD J. ....	Easton.
KIRKPATRICK, W. H. ....	"
STEELE, H. J. ....	"
STEWART, R. C. ....	"

## NORTHUMBERLAND COUNTY

AUTEN, VORIS .....	Mt. Carmel.
CLEMENT, CHARLES M. ....	Sunbury.
KNIGHT, HARRY S. ....	"
RYON, WILLIAM W. ....	Shamokin.

## PHILADELPHIA COUNTY

ABBOTT, EDWIN M. ....	Philadelphia.
ALEXANDER, BENJAMIN .....	"
ALEXANDER, LUCIEN HUGH .....	"
AMRAM, DAVID W. ....	"
ANDERSON, WILLIAM Y. C. ....	"

## PHILADELPHIA COUNTY—continued

BARNES, JOHN HAMPTON .....	Philadelphia.
BEITLER, HAROLD B. ....	"
BUDD, HENRY .....	"
BUTLER, J. EDGAR .....	"
CAMPBELL, JAMES F. ....	"
CAMPBELL, JOHN M. ....	"
CARR, GEORGE WENTWORTH .....	"
CARR, WILLIAM WILKINS .....	"
CARSON, HAMPTON L. ....	"
CARVER, ALEXANDER HENRY .....	"
CARVER, CHARLES .....	"
COLAHAN, J. B., JR. ....	"
CONLEN, WILLIAM J. ....	"
CONNOR, WILLIAM I. ....	"
DAVIS, HOWARD A. ....	"
DIXON, EDWIN S. ....	"
DOUGHERTY, D. WEBSTER .....	"
DOWNING, CHARLES H. ....	"
DRAKE, FREDERICK S. ....	"
EDMUNDS, CHARLES H. ....	"
ELLIOT, FRANK S. ....	"
FAHY, THOMAS A. ....	"
FAUGHT, ALBERT SMITH .....	"
FELL, DAVID N., JR. ....	"
FENSTERMAKER, T. A. ....	"
FISHER, WILLIAM RIGHTER .....	"
FOLZ, STANLEY .....	"
GABLE, VIVIAN FRANK. ....	"
GEST, JOHN MARSHALL. ....	"
GOOD, D. CLARE .....	"
GRIFFITH, DAVID R., JR. ....	"
GRIFFITH, WARREN G. ....	"
GUMMEY, CHARLES FRANCIS .....	"
HALLAHAN, JOHN W., 3D. ....	"
HEPBURN, W. HORACE. ....	"
HUNSICKER, J. QUINCY .....	"
JONES, G. VON PHUL .....	"
KANE, FRANCIS FISHER .....	"
KING, JAMES W. ....	"
LADNER, ALBERT H., JR. ....	"
LAMORELLE, JOSEPH F. ....	"
LEAMING, THOMAS .....	"
LEWIS, WILLIAM DRAPER .....	"
LINN, WILLIAM B. ....	"
LOYD, WILLIAM H. ....	"
MACLEAN, WILLIAM, JR. ....	"

## PHILADELPHIA COUNTY—continued

McADAMS, FRANCIS M. ....	Philadelphia.
McCALL, WILLIAM E., JR. ....	"
McKEEHAN, CHARLES L. ....	"
MAGUIRE, F. L. ....	"
MEAD, GLENN C. ....	"
MEAGHER, THOMAS JAMES .....	"
MICHENER, E. O. ....	"
MILLER, ALFRED S. ....	"
MILLER, E. SPENCER. ....	"
MONTGOMERY, WILLIAM M. ....	"
NEILSON, WILLIAM D. ....	"
NICHOLS, H. S. P. ....	"
PAGE, HOWARD W. ....	"
PARKINSON, THOMAS I. ....	"
PATTERSON, T. ELLIOTT .....	"
PUSEY, FRED. TAYLOR. ....	"
RALSTON, ROBERT .....	"
ROBERTS, C. WILSON .....	"
ROBERTS, OWEN J. ....	"
RUNK, LOUIS BARCROFT. ....	"
SEIBERLICH, EDWARD B. ....	"
SHATTUCK, FRANK R. ....	"
SHICK, ROBERT P. ....	"
SHOEMAKER, WILLIAM H. ....	"
SIMPSON, ALEX., JR. ....	"
SMITH, R. STUART .....	"
SMITH, THOMAS KILBY .....	"
SMITH, WALTER GEORGE .....	"
SMITHERS, WILLIAM W. ....	"
SOBERNHEIMER, FREDERICK A. ....	"
SPALDING, HENRY .....	"
STAAKE, WILLIAM H. ....	"
STAAKE, WILLIAM W. ....	"
STRONG, JOHN M. ....	"
SUTTON, W. HENRY .....	"
TODD, M. HAMPTON .....	"
VALE, RUBY R. ....	"
VAN DUSEN, GEORGE R. ....	"
VON MOSCHZISKER, ROBERT .....	"
WAGNER, GEORGE M. ....	"
WALKER, WINFIELD S. ....	"
WEAVER, JOHN .....	"
WEIL, ARTHUR E. ....	"
WETHERILL, CHARLES .....	"
WILLIAMS, J. HENRY .....	"

## PHILADELPHIA COUNTY—continued

WILSON, W. C. ....	Philadelphia.
WILSON, W. H. ....	"
WINDLE, FREDERICK F. ....	"
YOUNG, SYDNEY ....	"

## UNION COUNTY

GLOVER, HORACE P. ....	Mifflinburg.
LEISER, ANDREW A. ....	Lewisburg.
McCLURE, HAROLD M. ....	"

## VENANGO COUNTY

ASH, ISAAC ....	Oil City.
SPEER, PETER M. ....	"

## WARREN COUNTY

ALLEN, W. H. ....	Warren.
SCHOFIELD, JOSEPH A. ....	"

## WASHINGTON COUNTY

BROWNSON, JAMES I. ....	Washington.
HAZZARD, VERNON ....	Monongahela.
IRWIN, R. W. ....	Washington.

## WAYNE COUNTY

SEARLE, ALONZO T. ....	Honesdale.
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## WESTMORELAND COUNTY

CUNNINGHAM, J. E. B. ....	Greensburg.
GAITHER, PAUL H. ....	"

## WYOMING COUNTY

HARDING, H. S. ....	Tunkhannock.
PIATT, JAMES W. ....	"
TERRY, CHARLES E. ....	"

## YORK COUNTY

SCHMIDT, GEORGE S. ....	York.
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## HONORARY MEMBERS

Year of Admission		
1904	DAVIS, HENRY E.....	Washington, D. C.
1903	DILL, JAMES B.....	New Jersey.
1909	EATON, HON. AMASA M.....	Providence, R. I.
1895	FIERO, J. NEWTON.....	Albany, N. Y.
1898	FINDLAY, HON. JOHN V. L.....	Baltimore, Md.
1905	GARDINER, CHARLES A., 13 Park Row.....	New York, N. Y.
1907	GRAY, HON. GEORGE.....	Delaware.
1897	HERBERT, HON. HILARY A.....	Alabama.
1899	HORNBLOWER, HON. WM. B., 30 Broad St.....	New York, N. Y.
1902	HOWE, HON. WILLIAM WIRT.....	New Orleans, La.
1898	HOYT, HON. JAMES H.....	Cleveland, Ohio.
1896	PARKER, HON. CORTLANDT.....	Newark, N. J.
1910	PENNEWILL, HON. JAMES.....	Delaware.
1900	RICHARDS, HON. JOHN K.....	Ohio.
1901	ROSE, HON. U. M.....	Little Rock, Ark.
1906	TAFT, HON. WILLIAM H.....	Washington, D. C.
1908	TAYLOR, HON. HANNIS.....	Washington, D. C.
1900	WILLIAMS, TALCOTT, 916 Pine St.....	Philadelphia.

## LIST OF MEMBERS BY COUNTIES

## ADAMS COUNTY

1897	McSHERRY, WM. JR.....	Gettysburg.
1897	SWOPE, S. McC.....	"

## ALLEGHENY COUNTY

1900	ACHESON, M. W., JR.....	1927 Oliver Building,	Pittsburgh.
1906	AMMON, SAMUEL A.....	720 Frick Building,	"
1900	ANGNEY, ALLAN B.....	501 Fifth avenue,	"
1908	ARTHUR, EDMUND W.....	314 Frick Building,	"
1902	BALPH, ROWLAND A.....	Park Building,	"
1897	BEAL, J. H.....	450 Fourth avenue,	"
1898	BEATTY, SUZANNE S.....	1104 Frick Building,	"
1905	BENNER, THOMAS M.....	1010 Peoples Savings Bank Bldg.,	"
1900	BLAKELEY, W. A.....	1651 Frick Annex,	"
1895	BRECK, E. Y.....	502 Times Building,	"
1902	BRENNEN, WILLIAM J.....	Fifth and Wylie avenues,	"
1895	BROWN, A. M.....	5201 Liberty avenue,	"
1895	BROWN, JOHN D.....	Maeder Building,	"
1895	BROWN, MARSHALL.....	P. O. Box 389,	"
1895	BROWN, THOMAS S.....	1101 Berger Building,	"

Year of Admission	ALLEGHENY COUNTY—continued	
1895	BURGWIN, AUGUSTUS P....Penna. Co.,	Pittsburgh.
1895	BURGWIN, GEORGE C.....434 Diamond street,	"
1900	BURLEIGH, CLARENCE.....St. Nicholas Building,	"
1902	CALVERT, GEORGE H.....1227 Oliver Building,	"
1909	CAMPBELL, GEORGE J.....	Bellevue.
1896	CARPENTER, J. McF.....1565 Frick Building Annex,	Pittsburgh.
1896	CHALFANT, GEORGE N.....1565 Frick Building Annex,	"
1908	CHALFANT, JOHN W., JR..7th floor, 341 Fourth avenue,	"
1908	CHALLENGER, W. A.....	"
1896	CHANTLER, THOMAS D....Park Building,	"
1895	CRAIG, EDWIN S.....450 Fourth avenue,	"
1902	CRAWFORD, CHARLES S....1308 Berger Building,	"
1897	CRUMRINE, BOYD.....501 Berger Building,	"
1900	DAHLINGER, CHARLES W...518 Fourth avenue,	"
1895	DALZELL, JOHN.....170 Fourth avenue,	"
1898	DALZELL, WILLIAM S.....450 Fourth avenue,	"
1900	DOUGLASS, E. P.....	McKeesport.
1902	DUFF, JOHN BOYD.....2002 Commonwealth Bldg.,	Pittsburgh.
1895	EVANS, JOHN A.....170 Fourth avenue,	"
1905	EVANS, WILLIAM D.....509 Times Building,	"
1904	EWING, THOMAS.....Frick Building,	"
1897	FAGAN, CHARLES A.....518 Fourth avenue,	"
1907	FISHER, GORDON.....450 Fourth avenue,	"
1902	FLETCHER, J. GILMORE.....711 Frick Building,	"
1900	FLOWERS, GEORGE W.....Frick Building,	"
1907	FORD, THOMAS J.....Allegheny County Court House,	"
1895	FRAZER, ROBERT S.....1100 Shady ave., East End,	"
1902	GILFILLAN, ALEXANDER....602 Frick Building,	"
1898	GILLESPIE, CHARLES D....424 Diamond street,	"
1895	GORDON, GEORGE B.....1556 Frick Building,	"
1897	GRIFFITH, WILLIAM A....1015 Park Building,	"
1895	GUTHRIE, GEORGE W....434 Diamond street,	"
1898	GUTHRIE, WALTER J.....1862 Frick Building Annex,	"
1895	HALL, WILLIAM M., JR....Carnegie Building,	"
1899	HARRISON, J. HARVEY....1006 Berger Building,	"
1906	HAWKINS, RICHARD H....450 Fourth avenue,	"
1900	HAYS, EDWARD F.....1515 Berger Building,	"
1899	HUNTER, JOHN P.....14th floor, Berger Building,	"
1895	IMBRIE, A. M.....434 Diamond street,	"
1900	JENNINGS, W. K.....1053 Frick Building Annex,	"
1906	JONES, CHARLES WARING...Frick Building,	"
1903	KAHLE, FREDERICK L.....202 Bakewell Law Building,	"
1895	KENNEDY, JOHN M.....Frick Building Annex,	"
1895	KENNY, CHARLES B.....1059 Frick Annex,	"
1900	KINNENAR, JAMES W.....Oliver Building,	"

Year of  
Admission

## ALLEGHENY COUNTY—continued

1895	KNOX, P. C.....	1527 K street, N. W., Washington, D. C.	
1900	LANG, CHARLES P.....	1002 Frick Building,	Pittsburgh.
1898	LAZEAR, JESSE T.....	St. Nicholas Building,	"
1897	LAZEAR, THOMAS C.....	"	"
1906	LEWIS, GEORGE C.....	Frick Building,	"
1895	LYON, WALTER .....	14th floor, Berger Building,	"
1895	MACFARLANE, JAMES R....	434 Diamond street,	"
1896	MACRUM, WILLIAM.....	413 Fourth avenue,	"
1902	MARRON, JOHN.....	919 Frick Building,	"
1900	MATTERN, EDWIN L.....	230 Frick Building,	"
1895	McCLAY, SAMUEL.....	98 Diamond street,	"
1896	McCleave, Johns.....		"
1895	McCLUNG, S. A.....	1180 Murray Hill avenue,	"
1895	McCLUNG, WILLIAM H....	1116 Park Building,	"
1908	McCREERY, J. R.....	424 Frick Building,	"
1903	McELROY, ROBERT T. ....	Frick Building Annex,	"
1895	McGIRR, FRANK C.....	919 Frick Building,	"
1897	McKEE, CHARLES H.....	1015 Park Building,	"
1897	McKELVY, J. E.....	450 Fourth avenue,	"
1895	McKENNA, CHARLES F....	702 Frick Building,	"
1895	McKENNAN, JOHN D.....	440 Diamond street,	"
1902	MEHARD, S. S.....	1014 Frick Building,	"
1900	MILLER, D. M.....	1122 Frick Building,	"
1907	MILLER, FREDERICK W....	Berger Building, Fourth avenue,	"
1896	MILLER, J. J.....	St. Nicholas Building,	"
1895	MINOR, WILLIAM E.....	1301 Berger Building,	"
1898	MITCHELL, H. WALTON....	1015 Park Building,	"
1900	MONRO, WILLIAM L.....	422 Fifth avenue,	"
1898	MURPHY, JOHN A.....	1410 Berger Building,	"
1896	NEEPER, A. M.....	614 Frick Building,	"
1910	O'BRIEN, CHARLES A. ....	711 Berger Building,	"
1895	ORR, CHARLES P.....	Federal Building,	"
1895	OSBURN, FRANK C.....	134 Fifth avenue,	"
1902	PACKER, GIBSON D.....	Carnegie Building,	"
1895	PATTERSON, THOMAS.....	1759 Frick Building Annex,	"
1900	PETTY, ROBERT B.....	Berger Building,	"
1895	PLUMER, L. M.....	170 Fourth avenue,	"
1895	PORTER, WILLIAM D.....	Hotel Schenley,	"
1907	PRESTLEY, JOHN L.....	450 Fourth avenue,	"
1895	REED, JAMES H.....	Carnegie Building,	"
1906	REINEMAN, ROBERT T.....	Frick Building,	"
1896	ROBERTS, GEORGE L.....	215 Water street,	"
1896	RODGERS, W. B.....	424 Frick Building,	"
1908	ROSE, DON. ....		Sewickley, Pa.

Year of Admission	ALLEGHENY COUNTY—continued	
1895	SCANDRETT, RICHARD B.	1010 Peoples Savings Bank Bldg., Pittsburgh.
1895	SCHAFER, JOHN D.	184 Fourth avenue, “
1896	SCULL, EDWARD B.	St. Nicholas Building, “
1908	SEYMOUR, WARREN I.	1307 Farmers' Bank Building “
1900	SHAFFER, NOAH W.	902 Frick Building, “
1896	SHAW, GEORGE E.	Carnegie Building, “
1895	SHIELDS, JAMES M.	1167 Frick Building Annex, “
1896	SHIRAS, W. K.	434 Diamond street, “
1895	SMITH, EDWIN W.	Carnegie Building, “
1895	SMITH, EDWIN Z.	1939 Henry W. Oliver Building, “
1895	STADTFELD, JOSEPH	1115 Frick Building, “
1895	STERRETT, JAMES R.	85 Diamond street, “
1908	SUTTON, ROBERT WOOD	St. Nicholas Building, “
1896	SWEARINGEN, JOSEPH M.	Court House, “
1904	THOMPSON, A. M.	728 Frick Building, “
1900	THOMPSON, S. HARVEY	401 Grant street, “
1896	THORP, CHARLES M.	822 Frick Building, “
1896	TODD, HENRY C.	Peoples Savings Bank Building, “
1907	TRIMBLE, THOMAS P.	3358 Perryville avenue, Allegheny City.
1907	VAILL, EDWARD B.	418 Berger Building, Pittsburgh
1905	WASSON, HENRY GRANT	“
1895	WATSON, D. T.	170 Fourth avenue, “
1900	WATTERSON, A. V. D.	Fidelity Building, “
1896	WAY, WILLIAM A.	Park Building, “
1895	WEIL, A. LEO	822 Frick Building, “
1910	WELLER, JOHN S.	“
1895	WISE, J. H.	1301 Berger Building, “
1905	WISHART, WILLIAM W.	434 Diamond street, “
1895	YOUNG, JAMES S.	98 Diamond street, “

## ARMSTRONG COUNTY

1898	PAINTER, JOHN H.	Kittanning.
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## BEAVER COUNTY

1903	DARRAGH, ROBERT W.	Beaver.
1903	HICE, AGNEW	“
1906	HOLT, RICHARD S.	“
1895	LAIRD, FRANK H.	“
1903	McCONNEL, WILLIAM A.	“
1895	MOORE, WINFIELD S.	“
1906	MOORHEAD, FOREST G.	“
1903	WEYAND, EDWIN S.	“

Year of  
Admission

## BEDFORD COUNTY

1895	JORDAN, JOHN H.....	Bedford.
1901	LITTLE, ALVIN L.....	"
1909	REILEY, DONALD CRESS.....	"
1905	REYNOLDS, JOHN M.....	"
1909	SELL, SIMON H.....	"

## BERKS COUNTY

1895	BAER, GEORGE F.....	518 Washington street,	Reading.
1909	BERTOLET, WELLINGTON M..		"
1906	BLAND, H. WILLIS.....		"
1910	BUSHONG, ROBERT GREY ..		"
1908	DAMPMAN, JOHN B.....		"
1895	DERR, CYRUS G.....	542 Court street,	"
1909	DEYSHER, ELWOOD H.....		"
1909	DICKINSON, JOS. R.....		"
1910	DUMN, HARRY J.....		"
1896	ENDLICH, G. A.....	Court House,	"
1909	FISHER, J. WILMER.....		"
1909	FRAME, JOHN M.....		"
1909	FREED, WALTER B.....		"
1906	GRANT, JEREMIAH K.....		"
1909	HEINLY, HARVEY F.....	300 Baer Building,	"
1895	HIESTER, ISAAC.....	530 Washington street,	"
1898	JONES, RICHMOND L.....	528 Washington street,	"
1909	KANTNER, HARRY F.....		"
1906	KEISER, HENRY P.....		"
1909	KEPPELMAN, JOHN ARTHUR.		"
1909	KOCH, EARLE I.....		"
1909	LIVINGOOD, FRANK S.....		"
1896	MAUGER, DAVID F.....	526 Court street,	"
1909	NICOLLS, FREDERICK W....		"
1895	RICHARDS, LOUIS.....	520 Washington street,	"
1906	ROURKE, WILLIAM J.....		"
1904	RUHL, CHRISTIAN H.....	534 Washington street,	"
1895	SCHAEFFER, D. NICHOLAS..	526 Washington street,	"
1909	SCHAEFFER, E. CARROLL....		"
1909	SCHAEFFER, HARRY D.....		"
1909	SHOMO, WILLIAM ALFRED..		"
1909	SNYDER, THOS. LAEGER.....		"
1908	STAUFFER, RANDOLPH.....	521 Court street,	"
1909	STEVENS, J. B.....		"
1900	STEVENS, WILLIAM KERPER.	536 Washington street,	"
1909	WAGNER, GEORGE W.....		"

Year of  
Admission

## BLAIR COUNTY

1897	BALDRIGE, THOMAS J.....	Hollidaysburg.
1895	CRAIG, J. H.....	Altoona.
1909	HARR, THOMAS C.....	"
1909	HEINSLING, H. T.....	"
1909	HENDERSON, ROBERT A.....	"
1909	HICKS, WILLIAM L.....	"
1909	MECK, J. F.....	"
1895	MERVINE, NICHOLAS P.....	"
1909	SCHEELINE, ISAIAH.....	"
1909	SULLIVAN, J. AUSTIN.....	"
1909	SULLIVAN, JOHN F.....	"

## BRADFORD COUNTY

1895	CLEVELAND, EMERSON J.....	Canton.
1899	CODDING, JOHN W.....	Towanda.
1899	CORBIN, J. T.....	Athens.
1907	FANNING, ADELBERT C.....	Towanda.
1895	INGHAM, J. C.....	"
1895	MAXWELL, WILLIAM.....	"
1895	MERCUR, RODNEY A.....	"

## BUCKS COUNTY

1901	EASTBURN, HUGH B.....	Doylestown.
1908	HARRIS, HENRY O.....	"
1901	JAMES, HENRY A.....	"
1904	JAMES, HOWARD I.....	Bristol.
1895	KEELER, E. WESLEY.....	Doylestown.
1910	KELLER, HIRAM H.....	"
1902	KISER, HARVEY S.....	"
1908	ROSS, GEORGE.....	"
1902	ROSS, THOMAS.....	"
1903	RYAN, WILLIAM C.....	"
1908	SHOEMAKER, HARRY J.....	"
1902	STOUT, MAHLON H.....	"
1905	SWARTLEY, JOHN C.....	"
1895	YERKES, HARMAN.....	"

## BUTLER COUNTY

1897	BOWSER, S. F.....	Butler.
1897	WILLIAMS, ANDREW G.....	"

Year of  
Admission

## CAMBRIA COUNTY

1895	BARKER, AUGUSTINE V.....	Ebensburg.
1895	ENDSLEY, HARRY S.....	Johnstown.
1896	LITTLE, P. J.....	Ebensburg.
1895	MURPHY, ROBERT S.....	Johnstown.
1895	MYERS, H. H.....	Ebensburg.
1895	O'CONNOR, FRANCIS J.....	Johnstown.
1905	O'CONNOR, JAMES B.....	"
1895	ROSE, WILLIAM HORACE.....	"
1895	STEPHENS, MARLIN B.....	"
1910	WOLFE, GEORGE E. ....	"

## CAMERON COUNTY

1896	GREEN, B. W.....	Emporium.
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## CARBON COUNTY

1895	BARBER, LAIRD H.....	Mauch Chunk.
1895	BERTOLETTE, FRED.....	"
1904	HEYDT, HORACE.....	"
1902	LOOSE, JACOB C.....	"
1895	MULHEARN, EDWARD M.....	"
1896	SHARKEY, FRANK P.....	"

## CENTRE COUNTY

1895	BEAVER, JAMES A.....	Bellefonte.
1895	BLANCHARD, JOHN.....	"
1895	KELLER, HARRY.....	"
1895	ORVIS, ELLIS L.....	"
1907	WALKER, W. HARRISON.....	"

## CHESTER COUNTY

1896	BUTLER, WILLIAM, JR.....	West Chester.
1895	CORNWELL, GIBBONS GRAY.....	"
1895	CORNWELL, ROBERT T.....	"
1910	GAWTHROP, ROBERT S. ....	"
1895	GHEEN, JOHN J.....	"
1895	GILKYSON, H. H.....	Phoenixville.
1895	HAUSE, J. FRANK E.....	West Chester.
1909	HAVILAND, JOHN, JR.....	Phoenixville.
1895	HAYES, WILLIAM M.....	West Chester.
1896	HEMPHILL, JOSEPH.....	"
1895	HOLDING, ARCHIE McC.....	"
1895	RAMSEY, SAMUEL D.....	"
1896	REID, ALFRED P.....	"
1910	REID, ARTHUR P. ....	"
1910	TALBOT, WALTER S. ....	"

Year of  
Admission

## CLARION COUNTY

1897	CORBETT, DON C.....	Clarion.
1903	HINDMAN, WILLIAM A.....	"
1902	MAFFETT, FRANCIS J.....	"
1896	MAFFETT, JAMES T.....	"
1902	WILSON, HARRY R.....	"

## CLEARFIELD COUNTY

1895	SMITH, ALLISON O.....	Clearfield.
1897	SNYDER, J. FRANK.....	25 Broad street, New York, N. Y.
1903	SWOOPE, ROLAND D.....	Curwensville.

## CLINTON COUNTY

1896	HIPPLE, T. C.....	Lock Haven
1895	KRESS, WILSON C.....	"
1896	PEALE, S. R.....	"

## COLUMBIA COUNTY

1895	FREEZE, JOHN G.....	Bloomsburg.
1895	McKILLIP, H. A.....	"
1895	SMALL, CHRISTIAN A.....	"

## CRAWFORD COUNTY

1905	FLOOD, NED ARDEN.....	Meadville.
1907	HENDERSON, JOHN J.....	"
1895	KOHLER, OTTO.....	"
1908	SCHWARTZ, SYDNEY A.....	Titusville.

## CUMBERLAND COUNTY

1895	ADDAMS, CHARLES P.....	Carlisle.
1902	BASEHORE, SAMUEL E.....	Mechanicsburg.
1902	BASHORE, CHESTER C.....	Carlisle.
1895	BIDDLE, EDWARD W.....	"
1897	HAMBLETON, CONRAD.....	"
1895	HENDERSON, J. WEBSTER.....	"
1910	IRVING, ROBERT W.....	"
1899	KAST, IDA G.....	Mechanicsburg.
1895	LLOYD, WILLIAM PENN.....	"
1906	McKEEHAN, JOSEPH P.....	Carlisle.
1907	OMWAKE, J. S.....	Shippensburg.
1910	RHEY, JOHN M.....	Carlisle.
1897	RUPLEY, ARTHUR R.....	"
1895	SMEAD, A. D. BACHE.....	"
1895	TRICKETT, WILLIAM.....	"
1895	WETZEL, JOHN W.....	"



Year of Admission	DAUPHIN COUNTY	
1895	ALRICKS, LEVI B.....207 Walnut street,	Harrisburg.
1895	BACKENSTOE, CLAYTON H..14 N. Third street,	"
1895	BAILEY, CHARLES L., JR....16 N. Second street,	"
1907	BARNETT, GEORGE R.....	"
1896	BERGNER, CHARLES H.....4 N. Third street,	"
1895	BOWMAN, SIMON S.....	Millersburg.
1900	BRADY, JOHN T.....18 N. Third street,	Harrisburg.
1895	CARE, R. SHERMAN.....409 Market street,	"
1895	DULL, CASPER.....26 N. Third street,	"
1906	EASTMAN, FRANK M.....211 Locust street,	"
1895	FOX, JOHN E.....1 N. Market square,	"
1895	GILBERT, LYMAN D.....4 N. Third street,	"
1904	HAIN, WILLIAM M.....2 S. Second street,	"
1895	HALDEMAN, DONALD C....222 Market street,	"
1895	HARGEST, THOMAS S.....	"
1895	HARGEST, WILLIAM M....	"
1895	JACOBS, MICHAEL WM....	"
1903	KUNKEL, PAUL A.....2 N. Court street,	"
1895	LAMBERTON, JAMES M....216 Market street,	"
1895	McCARRELL, SAMUEL J. M.16 N. Market square,	"
1895	McCORMICK, HENRY B....223 Market street,	"
1895	McPHERSON, JOHN B.....	Philadelphia.
1895	MEYERS, WILLIAM K.....16 N. Second street,	Harrisburg.
1901	MIDDLETON, WILLIAM H...204 Market street,	"
1895	MITCHELL, EHRLMAN B....16 N. Second street,	"
1895	NISSLEY, JOHN C.....31 N. Second street,	"
1895	OLMSTED, MARLIN E.....5 N. Third street,	"
1895	OTT, FREDERICK M.....222 Market street,	"
1895	PATTERSON, JOHN E.....	"
1900	SEITZ, DANIEL S.....	"
1895	SHOEMAKER, HOMER.....9 N. Third street,	"
1895	SHOPP, JOHN H.....4 N. Third street,	"
1908	SNODGRASS, FRANK P.....17 N. Third street,	"
1895	SNODGRASS, ROBERT.....	"
1895	SNYDER, EUGENE.....10 N. Third street,	"
1895	STAMM, A. CARSON.....5 N. Third street,	"
1904	STROH, CHARLES C.....222 Market street,	"
1900	WEISS, JOHN FOX.....216 Market street,	"
1895	WICKERSHAM, FRANK B...6½ N. Second street,	"
1908	ZIEGLER, FRANK E.....18 N. Third street,	"

## DELAWARE COUNTY

1904	BROOMALL, JOHN M.....	Media.
1908	BUTLER, GEORGE T.....	"
1902	COCHRAN, A. A.....	Chester.

Year of  
Admission

## DELAWARE COUNTY—continued

1895	DARLINGTON, GEORGE E.....	Media.
1902	DICKINSON, O. B.....	Chèster.
1902	FRONEFIELD, W. ROGER.....	Media.
1904	GEARY, A. B.....	Chester.
1905	GREEN, HORACE P.....	Media.
1896	HALL, E. H.....	"
1908	HINKSON, JOS. H.....	Chester.
1902	MACDADE, A. D.....	"
1910	ROBINSON, J. ROHRMAN.....	Media.
1898	SCHAFER, WILLIAM I.....	Chester.

## ELK COUNTY

1908	ELY, FRED. H.....	Ridgway.
1895	M'CAULEY, C. H.....	"

## ERIE COUNTY

1900	BAKER, C. L.....	Erie.
1903	BROOKS, JOHN B.....	"
1902	COHEN, BERT.....74 Broadway,	New York City.
1900	CURTZE, H. J.....726 State street,	Erie.
1902	FISH, HENRY E.....	"
1900	GUNNISON, FRANK.....	"
1895	LAMB, THEODORE A.....807 State street,	"
1902	RILLING, JOHN S.....708 State street,	"
1895	ROSENZWEIG, L.....8 South Park,	"
1907	SHREVE, MILTON W.....	"
1902	SISSON, A. E.....722 State street,	"
1900	WALLING, EMORY A.....	"
1895	WHITTELEY, E. L.....	"

## FAYETTE COUNTY

1907	ADAMS, JACOB B.....	Uniontown.
1895	BOYD, A. D.....	"
1903	BOYLE, JOHN.....	"
1905	CORE, JOHN McMULLAN.....	"
1895	EWING, NATHANIEL.....	"
1897	FRASHER, LUKE H.....	"
1901	HAGAN, A. C.....	"
1895	HERTZOG, D. M.....	"
1895	HOPWOOD, R. F.....	"
1903	JOHNSON, WILLIAM J.....	"
1895	KEFOVER, CHARLES F.....	"

Year of  
Admission

## FAYETTE COUNTY—continued

1895	LINDSEY, R. H.....	Richmond, Va.
1896	MESTREZAT, S. LESLIE.....	Uniontown.
1903	PLAYFORD, ROBERT W.....	"
1895	REPPERT, E. H.....	"
1907	STURGEON, DANIEL.....	"
1895	UMBEL, ROBERT E.....	"

## FRANKLIN COUNTY

1895	ALEXANDER, WILLIAM.....	Chambersburg.
1895	BOWERS, O. C.....	"
1906	DAVISON, WATSON R.....	Waynesboro.
1902	ELDER, IRVIN CAMERON.....	Chambersburg.
1902	FOUST, ELLIS E.....	"
1902	GILLAN, ARTHUR W.....	"
1895	GILLAN, W. RUSH.....	"
1909	HUTTON, A. J. WHITE.....	"
1895	OMWAKE, W. T.....	Waynesboro.
1895	ROWE, D. WATSON.....	Chambersburg.
1895	SHARPE, WALTER K.....	"
1896	STEWART, JOHN.....	"
1901	STRITE, J. A.....	"
1895	WALTER, CHARLES.....	"

## FULTON COUNTY

1895	ALEXANDER, W. SCOTT.....	McConnellsburg.
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## GREENE COUNTY

1895	SAYERS, JAMES E.....	Waynesburg.
1895	WALTON, DANIEL S.....	"

## HUNTINGDON COUNTY

1905	BAILEY, THOMAS F.....	Huntingdon.
1905	DORRIS, JOHN D.....	"
1895	ORLADY, GEORGE B.....	"

## INDIANA COUNTY

1897	BANKS, J. N.....	Indiana.
1902	CUNNINGHAM, SAMUEL.....	"
1895	ELKIN, JOHN P.....	"
1906	FISHER, JOHN S.....	"
1906	JACK, SUMMERS M.....	"
1906	LANGHAM, J. N.....	"
1906	TELFORD, S. J.....	"
1895	WHITE, HARRY.....	"

Year of  
Admission

## JEFFERSON COUNTY

1897	BLOOD, CYRUS H.....	Brookville.
1895	CLARK, B. M.....	Punxsutawney.
1902	CONRAD, W. N.....	Brookville.
1895	CORBET, CHARLES .....	"
1906	MCDONALD, GEORGE M.....	Reynoldsville.
1903	MURRAY, JAMES V.....	Brookville.
1896	REED, JOHN W.....	"
1897	WILSON, HENRY I.....	Big Run.

## JUNIATA COUNTY

1905	MCMEEN, ROBERT.....	Mifflintown.
1906	NEELY, J. HOWARD.....	"
1895	PENNELL, F. M. M.....	"

## LACKAWANNA COUNTY

1896	ARCHBALD, R. W.....	Scranton.
1895	BURR, JAMES E.....	"
1898	DIMMICK, J. BENJAMIN.....	"
1896	EDWARDS, H. M.....	"
1899	FLEITZ, FREDERIC W.....	"
1898	HARRIS, JOHN M.....	"
1896	KNAPP, HENRY A.....	"
1895	PATTERSON, ROSWELL H.....	"
1895	PRICE, SAMUEL B.....	"
1903	SANDO, M. F.....	"
1902	SINN, JOSEPH A.....	1539 Monroe avenue,
1896	TORREY, JAMES H.....	"
1895	WARREN, EVERETT.....	"
1895	WATRES, LOUIS ARTHUR.....	"
1895	WELLES, CHARLES H.....	"
1895	WILCOX, WILLIAM A.....	"

## LANCASTER COUNTY

1907	APPEL, JOHN W.....	Lancaster.
1903	APPEL, WILLIAM N.....	"
1904	ATLEE, BENJ. C.....	"
1907	BERNTHEIZEL, CLEON N.....	Columbia.
1895	BROWN, J. HAY.....	Lancaster.
1908	COYLE, JOHN A.....	"
1898	EABY, C. REESE.....	"
1895	ESHLEMAN, G. ROSS.....	"
1906	ESHLEMAN, H. FRANK.....	"
1904	HAGER, CHARLES F.....	"

Year of Admission	LANCASTER COUNTY—continued	
1907	HARNISH, MARTIN M.....	Lancaster.
1900	HASSLER, A. B.....	"
1895	HENSEL, WILLIAM U.....	"
1895	HOLAHAN, THOMAS B.....	"
1895	HOSTETTER, ABRAHAM F.....	"
1901	KELLER, WILLIAM H.....	"
1895	LANDIS, CHARLES I.....	"
1902	NAUMAN, JOHN A.....	"
1909	NORTH, HUGH M.....	"
1904	REILLY, RICHARD M.....	"
1901	SMITH, EUGENE G.....	"
1903	SNYDER, JOHN E.....	"

## LAWRENCE COUNTY

1897	AIKEN, ROBERT K.....	New Castle.
1901	DANA, RICHARD FALLS.....	"
1900	DANA, SAMUEL W.....	"
1901	FALLS, WALLACE H.....	"
1895	HAZEN, AARON L.....	"
1895	MARTIN, J. NORMAN.....	"
1897	WALLACE, WILLIAM D.....	"
1895	WINTERITZ, B. A.....	"

## LEBANON COUNTY

1907	LIGHT, WARREN G.....	Lebanon.
1895	SHIRK, HOWARD C.....	"
1895	WEIDMAN, GRANT.....	"

## LEHIGH COUNTY

1910	AUBREY, GEORGE W.....	Allentown.
1895	DESHLER, JAMES B.....	"
1907	HOTTENSTEIN, MARCUS S.....	"
1899	JACOBS, FRANK.....	"
1908	STUART, ROBERT L.....	"
1899	TREXLER, FRANK M.....	"
1907	ULRICH, ALEX. N.....	Catasauqua.

## LUZERNE COUNTY

1899	ANDERSON, J. N.....	Pittston.
1899	ANSART, FELIX.....	Wilkes-Barre.
1899	ATHERTON, THOMAS H.....	"
1895	BEDFORD, GEORGE R.....	"
1898	DARLING, THOMAS.....	"

Year of  
Admission

## LUZERNE COUNTY—continued

1895	GARMAN, JOHN M.....	Nanticoke.
1898	HAND, ISAAC P.....	Wilkes-Barre.
1899	JENKINS, JOHN E.....	"
1895	KULP, GEORGE B.....	"
1895	LENAHAN, JOHN T.....	"
1896	McCLINTOCK, ANDREW H.....	"
1895	MINER, SIDNEY R.....	"
1895	PALMER, H. W.....	"
1899	RAEDER, WILLIAM L.....	"
1896	RICE, CHARLES E.....	"
1899	STRAUSS, S. J.....	"
1901	WALLER, LEVI E.....	"
1899	WILLIAMS, A. L.....	"
1898	WOODWARD, J. B.....	"
1899	WRIGHT, GEORGE R.....	"

## LYCOMING COUNTY

1895	AMES, HERBERT T.....	Williamsport.
1895	CANDOR, ADDISON.....	"
1906	CROCKER, WILLIAM D.....	"
1897	DEEMER, WILLIAM RUSSELL.....	"
1903	EDWARDS, NICHOLAS M.....	"
1895	FREDERICKS, J. T.....	"
1910	HAINES, WM. ELLIS.....	"
1895	HART, WILLIAM W.....	"
1910	LARRABEE, DON M.....	"
1895	McCORMICK, SETH T.....	"
1909	McCORMICK, SETH T., JR.....	"
1895	MUNSON, C. LA RUE.....	"
1895	READING, JOHN G.....	"
1895	SPROUT, CLARENCE E.....	"
1898	WATSON, HENRY W.....	"
1902	WATSON, JAMES C.....	"
1897	WHITEHEAD, HARVEY W.....	"

## McKEAN COUNTY

1902	BOUTON, J. W.....	Smethport.
1902	GALLUP, FRED. D.....	"
1900	HUEY, ANDREW P.....	Kane.
1900	JACK, DAVID H.....	Bradford.
1910	MULLIN, J. E.....	Kane.
1900	SCHOONMAKER, FREDERIC P.....	Bradford.
1902	TAIT, EDWIN E.....	"

Year of  
Admission

## MERCER COUNTY

1895	GORDON, QUINCY A.....	Mercer.
1900	TEMPLETON, E. S.....	Greenville.
1895	WILLIAMS, ALFRED W.....	Sharon.

## MIFFLIN COUNTY

1903	CULBERTSON, FRED. W.....	Lewistown.
1903	CULBERTSON, HORACE J.....	"
1895	WOODS, JOSEPH M.....	"

## MONROE COUNTY

1904	HUFFMAN, HARVEY.....	Stroudsburg.
1898	KOTZ, HENRY J.....	"
1898	PALMER, A. MITCHELL.....	"
1904	SHULL, S. E.....	"
1895	STAPLES, CHARLES B.....	"

## MONTGOMERY COUNTY

1901	BROWNBACK, HENRY M.....	Norristown.
1908	CHILDS, LOUIS M.....	"
1898	DANNEHOWER, WILLIAM F.....	"
1901	EVANS, MILLER D.....	Pottstown.
1895	EVANS, MONTGOMERY.....	Norristown.
1898	FOX, GILBERT RODMAN.....	"
1904	FOX, HENRY I.....	"
1908	HALLMAN, ELWOOD L.....	"
1908	JENKINS, J. P. HALE.....	"
1908	LARZELERE, JEREMIAH B.....	"
1898	LARZELERE, N. H.....	"
1910	McAVOY, CHARLES D.....	"
1906	MILLER, JOHN FABER.....	"
1907	PLACE, ALBERT R.....	Lansdale.
1898	SOLLY, WILLIAM F.....	Norristown.
1899	SWARTZ, AARON S.....	"
1900	WANGER, IRVING P.....	"
1898	WEAND, HENRY K.....	"

## NORTHAMPTON COUNTY

1895	FOX, EDWARD J.....	Easton.
1901	GOLDSMITH, AARON.....	"
1906	HOFFMAN, JOHN D.....	Bethlehem.
1910	KIRKPATRICK, WILLIAM H.....	Easton.
1895	KIRKPATRICK, WILLIAM S.....	"
1898	MAXWELL, HENRY D.....	"
1897	NEVIN, D. W.....	"
1895	STEELE, H. J.....	"
1895	STEWART, RUSSELL C.....	"
1910	STOTZ, ROBERT A.....	"

Year of  
Admission

## NORTHUMBERLAND COUNTY

1908	AUTEN, VORIS .....	Mt. Carmel
1895	CLEMENT, CHARLES M.....	Sunbury.
1899	KNIGHT, HARRY S.....	"
1895	ORAM, W. H. M.....	Shamokin.
1896	RYON, WILLIAM W.....	"

## PERRY COUNTY

1895	SEIBERT, WILLIAM N.....	New Bloomfield.
1895	SMILEY, CHARLES H.....	"

## PHILADELPHIA COUNTY

1908	ABBOTT, EDWIN M.....	818 Land Title Building.
1910	ACKER, J. HENRY RADEY.....	1100 Penn Square Building.
1895	ADAMS, JOHN STOKES.....	460-464 Bullitt Building.
1900	ADLER, FRANCIS COPE.....	722 Bourse Building.
1899	ALCORN, JAMES.....	309-11 Harrison Building.
1902	ALEXANDER, BENJAMIN.....	925 Chestnut street.
1899	ALEXANDER, LUCIEN H.....	713 Arcade Building.
1902	AMRAM, DAVID W.....	710 Penn Square Building.
1899	ANDERSON, WILLIAM Y. C.....	929 Chestnut street.
1895	ANDRE, JOHN K.....	607-8 Real Estate Trust Building.
1902	ARNOLD, ARTHUR S.....	438 Walnut street.
1895	ASHHURST, RICHARD L.....	225 South Sixth street.
1895	AUDENREID, CHARLES Y.....	6331 Lancaster avenue.
1895	BALLARD, ELLIS AMES.....	1242-8 Land Title Building.
1895	BAMBERGER, ALBERT J.....	606 Chestnut street.
1895	BAMBERGER, L. J.....	"
1895	BARNES, J. HAMPTON.....	900 Girard Building.
1897	BARRATT, NORRIS S.....	Room 461 City Hall.
1902	BARTLETT, CHARLES E.....	1634 Land Title Building.
1908	BAUERLE, ALBERT T.....	606 Commonwealth Building.
1908	BECK, JAMES M.....	52 Wall street, New York.
1899	BEDFORD, J. CLAUDE.....	914 Franklin Bank Building.
1895	BEEBER, DIMNER.....	631 Land Title Building.
1908	BEGGS, ROBERT A., JR.....	607 Provident Building.
1895	BEITLER, ABRAHAM M.....	750 Bullitt Building.
1905	BEITLER, HAROLD B.....	810 West End Trust Building.
1900	BELL, JOHN CROMWELL.....	1331-4 Land Title Building.
1895	BIDDLE, CHARLES.....	505 Chestnut street.
1904	BIKLE, HENRY WOLF.....	231 Broad Street Station.
1902	BOCKIUS, MORRIS R.....	934 Land Title Building.
1901	BODINE, W. B., JR.....	1438-48 Land Title Building.



Year of  
Admission

## PHILADELPHIA COUNTY—continued

1907	BOHLEN, FRANCIS H.....	Chestnut Hill.
1896	BONSALL, EDWARD H.....	Land Title Building.
1900	BORNEMAN, HENRY S.....	802 Girard Building.
1899	BOWERS, LEE S.....	135 North Twelfth street.
1902	BOWKER, GEORGE C.....	801 Girard Building.
1895	BOWMAN, WENDELL P.....	414 Franklin Bank Building.
1895	BOYD, PETER .....	1319-23 North American Bldg.
1904	BOYER, HERBERT M.....	133 South Twelfth street.
1901	BRACKEN, FRANCIS B.....	1129 Land Title Building.
1909	BRANNAN, ROBERT.....	900 North Forty-second street.
1895	BREGY, LOUIS .....	700-05 Penn Square Building.
1903	BREITINGER, FRED. L.....	133 South Twelfth street.
1902	BREITINGER, J. L.....	714 Franklin Building.
1904	BRINTON, JASPER Y.....	912 Penn Square Building.
1901	BRINTON, JOSEPH HILL.....	1302 Commonwealth Trust Bldg.
1902	BRINTON, SHARSWOOD.....	900 Girard Building.
1902	BROMLEY, B. GORDON.....	701 Arcade Building.
1902	BROOKS, EDWARD, JR.....	643 Land Title Building.
1895	BROWN, FRANCIS SHUNK.....	1005 Morris Building.
1895	BROWN, HENRY P.....	1535 Land Title Building.
1895	BROWN, JOHN A.....	426 Library street.
1895	BROWN, JOHN DOUGLASS.....	460 Drexel Building.
1902	BROWN, REYNOLDS D.....	1404 Land Title Building.
1904	BROWN, WILLIAM ALEXANDER....	3937 Locust street.
1896	BROWN, WILLIAM FINDLAY.....	806 Pennsylvania Building.
1902	BUCKMAN, J. HIBBS.....	1006 Girard Building.
1895	BUDD, HENRY.....	727 Walnut street.
1907	BUNTING, JOSEPH T.....	560 Drexel Building.
1895	BURNETT, WILLIAM H.....	400 Chestnut street.
1910	BUTLER, J. EDGAR .....	1524 Chestnut street.
1902	CADWALADER, JOHN, JR.....	263 South Fourth street.
1896	CADWALADER, RICHARD M.....	706 Franklin Building.
1896	CAMPBELL, JAMES D.....	Wyncote, Pa.
1904	CAMPBELL, JAMES F.....	133 South Twelfth street.
1901	CAMPBELL, JOHN M.....	215 South Sixth street.
1898	CARR, GEORGE W.....	607 Provident Building.
1896	CARR, WILLIAM WILKINS.....	600 Girard Building.
1895	CARSON, HAMPTON L.....	1336 Walnut street.
1909	CARVER, ALEXANDER HENRY.....	212 Stephen Girard Building.
1897	CARVER, CHARLES.....	"
1902	CASSEL, JOHN R.....	351 Drexel Building.
1895	CATTELL, HENRY S.....	1218 Chestnut street.
1902	CHAPMAN, S. SPENCER.....	1001 Chestnut street.
1895	CLAPP, B. FRANK.....	630 Land Title Building.
1904	CLARK, FREDERIC L.....	510 Penn Square Building.

Year of Admission	PHILADELPHIA COUNTY—continued
1902	CODY, FRANK M.....804-6 Betz Building.
1895	COLAHAN, JOHN B., JR.....803 Mutual Life Building.
1900	CONARD, C. WILFRED.....1118 Chestnut street.
1904	CONLEN, WILLIAM J.....912 Penn Square Building.
1910	CONNOR, WILLIAM T.....1403 Filbert street.
1899	COOPER, SAMUEL W.....1200 Betz Building.
1902	COULSTON, C. W.....800-03 Betz Building.
1904	CROWLEY, JERE J.....1012 Girard Trust Building.
1895	CUYLER, THOMAS DEWITT.....701 Arcade Building.
1900	DA COSTA, CHARLES F.....700 Bullitt Building.
1902	DALLETT, MORRIS.....1107 Girard Building.
1902	DANIELS, BENJAMIN.....502 Land Title Building.
1910	DANIELS, MAURICE V....."
1902	DAVIS, HOWARD A.....514 Franklin Building.
1910	DAVIS, J. WARREN .....1524 Chestnut street
1895	DECHERT, HENRY M.....Commonwealth Trust Company.
1895	DECHERT, HENRY T.....800 West End Trust Building.
1903	DEMMING, GEORGE.....1112 Land Title Building.
1895	DEVELIN, JAMES AYLWARD.....400 Chestnut street.
1901	DICKEY, JOHN, JR.....804 Land Title Building.
1899	DICKSON, ARTHUR G.....750 Bullitt Building.
1895	DICKSON, SAMUEL....."
1900	DIXON, EDWIN S.....505 Chestnut street.
1901	DOUGHERTY, D. WEBSTER.....741 Land Title Building.
1905	DOUGLASS, WALTER C., JR.....330 P. O. Building.
1902	DOWNING, CHARLES H.....1335 Arch street.
1896	DRAKE, FREDERICK S.....300-06 Penn Square Building.
1905	DROVIN, GEORGE ALBERT.....203-205 Franklin Building.
1895	DUANE, RUSSELL.....1617-23 Land Title Building.
1905	DUBOIS, HENRY M.....1001 Chestnut street.
1904	EDMONDS, FRANKLIN S.....614 Franklin Building.
1902	EDMUNDS, CHARLES H.....1304 Pennsylvania Building.
1902	EDMUNDS, HENRY R.....520 Walnut street.
1904	EDWARDS, GEORGE J., JR.....522 Stephen Girard Building.
1902	EGGLESTON, CHARLES F.....1005 Bailey Building.
1904	EHRLICH, FRANZ, JR.....826-9 Stephen Girard Building.
1899	ELLIOT, FRANK S.....2130 Land Title Building.
1902	ELWELL, ISAAC.....1106 Commonwealth Trust Bldg.
1909	EMBERY, JOSEPH R.....1105-6 Real Estate Trust Building.
1895	EVANS, ROWLAND.....225 South Sixth street.
1904	FAHY, THOMAS A.....14 South Broad street.
1910	FAHY, WALTER THOMAS .....4704 Green street.
1904	FARIES, EDGAR DUDLEY.....645 Land Title Building.
1905	FARR, CHESTER N., JR.....415 Real Estate Trust Building.
1908	FAUGHT, ALBERT SMITH.....1430 Spruce street.

Year of  
Admission

## PHILADELPHIA COUNTY—continued

1902	FELL, DAVID N., JR.	618 North American Building.
1895	FENSTERMAKER, THOMAS A.	625 Witherspoon Building.
1897	FERGUSON, WILLIAM C.	City Hall.
1897	FISHER, WILLIAM RIGHTER	1012 Stephen Girard Building.
1902	FLAHERTY, JAMES A.	1328 Chestnut street.
1910	FLETCHER, WM. MEADE	1015 Real Estate Trust Bldg.
1895	FOLZ, LEON H.	909 Walnut street.
1905	FOLZ, STANLEY.	"
1905	FOX, HENRY K.	510 North American Building.
1895	FRIES, HENRY K.	1328 Chestnut street.
1895	FURTH, EMANUEL.	404 Bailey Building.
1895	FUTRELL, WILLIAM H.	928 Land Title Building.
1901	GABLE, VIVIAN FRANK.	509 Franklin Building.
1899	GATES, THOMAS S.	517 Chestnut street.
1895	GEST, JOHN M.	905 Lafayette Building.
1902	GILFILLAN, JOSEPH.	512 Crozer Building.
1895	GILL, HARRY B.	328 Chestnut street.
1905	GLASGOW, WILLIAM A., JR.	415 Real Estate Trust Building.
1909	GOOD, D. CLARE.	535 Chestnut street.
1902	GOODBREAD, JOSEPH S.	635 Walnut street.
1900	GORDON, JAMES GAY.	710-23 North American Building.
1895	GORMAN, WILLIAM.	313 Stephen Girard Building.
1895	GOWEN, FRANCIS I.	229 Broad Street Station.
1900	GRAHAM, GEORGE S.	509 Crozer Building.
1902	GRAY, WILLIAM A.	1001 Chestnut street.
1901	GREENWALD, JOSEPH L.	1006 Arch street.
1902	GRIFFITH, DAVID R., JR.	200 Penn Square Building.
1901	GRIFFITH, WARREN G.	641 Land Title Building.
1897	GROSS, JOSEPH W.	1610 Real Estate Trust Building.
1906	GUMBES, FRANCIS M.	812 Penn Square Building.
1902	GUMMEY, CHARLES F.	133 South Twelfth street.
1910	HAGGARTY, CORNELIUS, JR.	1420 Chestnut street.
1895	HAIG, ALFRED R.	2015 Land Title Building.
1902	HANNA, MEREDITH	802 Crozer Building.
1901	HARRINGTON, AVERY D.	Franklin Building.
1895	HARRITY, WILLIAM F.	2015 Land Title Building.
1906	HATFIELD, HENRY R.	723 Walnut street.
1902	HAWKES, THOMAS G.	1429 Chestnut street.
1902	HAYES, WILLIAM A.	512 Commonwealth Trust Bldg.
1901	HECKSCHER, STEVENS	1617 Land Title Building.
1899	HENDERSON, GEORGE	133 South Twelfth street.
1895	HENRY, BAYARD.	1438 Land Title Building.
1901	HEPBURN, C. J.	803 Bailey Building.
1895	HEPBURN, W. HORACE.	1335 Arch street.
1902	HERZBERG, MAX	802 Commonwealth Building.

Year of  
Admission

## PHILADELPHIA COUNTY—continued

1904	HIBBERD, DILWORTH P.....	703 Harrison Building.
1907	HINCKLEY, JOHN C.....	Witherspoon Building.
1899	HOEFLE, HENRY A.....	1335 Arch street.
1900	HOFFMAN, EDWARD F.....	309 Pennsylvania Building.
1898	HOLLAND, JAMES B.....	Post Office Building.
1895	HOPKINSON, EDWARD.....	905 Walnut street.
1904	HORWITZ, GEORGE Q.....	604 West End Trust Building.
1902	HOWSON, CHARLES H.....	900 West End Trust Building.
1897	HOYT, HENRY M.....	Department of State, Washington, D. C.
1902	HUEY, ARTHUR B.....	602 Commonwealth Trust Bldg.
1902	HUNSICKER, CHARLES.....	309 Stephen Girard Building.
1904	HUNSICKER, J. QUINCY.....	1420 Chestnut street.
1902	HUNTER, RICHARD S.....	308 Walnut street.
1910	HUTCHINSON, ARTHUR E.....	1100 Penn Square Building.
1895	HYNEMAN, SAMUEL M.....	1634 Land Title Building.
1896	JENKINS, THEO. F.....	1100-2 Girard Building.
1904	JENKS, ROBERT D.....	700 West End Trust Building.
1904	JESTER, WILLIAM B.....	Beverly, N. J.
1904	JOHNSON, ARCHIBALD T.....	1420 Chestnut street.
1895	JOHNSON, JOHN G.....	1335 Land Title Building.
1902	JONES, G. VON PHUL.....	213-14 Penn Square Building.
1895	JONES, J. LEVERING.....	631 Land Title Building.
1895	JONES, JAMES COLLINS.....	460 Bullitt Building.
1906	JOPSON, THOMAS W.....	523 Chestnut street.
1895	JUNKIN, JOSEPH DeF.....	411 Real Estate Trust Building.
1899	KANE, FRANCIS FISHER.....	1832 New Land Title Building.
1895	KEATOR, JOHN F.....	1026-29 Stephen Girard Building.
1902	KEENE, GEORGE FRED.....	1012 Franklin Bank Building.
1902	KENDRICK, MURDOCH.....	815 Crozer Building.
1902	KENWORTHY, JOSEPH W.....	808-9 Crozer Building.
1909	KING, JAMES W.....	1608 Pine street.
1909	KIRKPATRICK, SAMUEL H.....	2218 Land Title Building.
1904	KLINGES, J. PETER.....	216 Franklin Building.
1902	KNAUS, FREDERICK J.....	1005 Betz Building.
1904	KOCHERSPERGER, CLAYTON H.....	903 Girard Building.
1902	KOHN, HARRY E.....	121 S. Fifth street.
1904	KREWSON, GEORGE C.....	709 Walnut street.
1910	LADNER, ALBERT H., JR.....	702 Land Title Building.
1910	LADNER, GROVER C.....	"
1910	LAMORELLE, JOSEPH F.....	434 City Hall.
1895	LANDRETH, LUCIUS S.....	512 Walnut street.
1903	LANE, EDGAR W.....	1100 Land Title Building.
1902	LAVER, DAVID.....	1129 Land Title Building.

Year of Admission	PHILADELPHIA COUNTY—continued
1902	LAWS, JAMES W.....918 Land Title Building.
1895	LEAMING, THOMAS.....1306 Land Title Building.
1895	LEONARD, FREDERICK M.....119 South Fourth street.
1898	LESER, OSCAR.....Care Editorial Dept. Baltimore American, Baltimore, Md.
1895	LEVI, JULIUS C.....606 Chestnut street.
1902	LEVIN, J. SIEGMUND.....438 Walnut street.
1895	LEWIS, FRANCIS D.....934 Land Title Building.
1895	LEWIS, WILLIAM DRAPER.....Law Dept., University of Penna.
1902	LEX, CHARLES E.....488 Bourse Building.
1902	LINN, WILLIAM B.....Real Estate Trust Building.
1902	LLOYD, MALCOLM, JR.....328 Chestnut street.
1901	LOGUE, J. WASHINGTON.....Stephen Girard Building.
1895	LOWREY, DWIGHT M.....1628 Land Title Building.
1904	LOYD, WILLIAM H., JR.....608 Real Estate Trust Building.
1910	LUDLOW, BENJAMIN H.....1200 Betz Building.
1895	LUKENS, WILLIAM H. R.....507 Real Estate Trust Building.
1899	LYLE, FRANKLIN L.....522 Stephen Girard Building.
1902	MACCAIN, CHRISTIAN S.....834 Land Title Building.
1909	MACELDOWNNEY, W. A.....225 South Sixth street.
1904	MACFARLAND, LEO.....1515 Arch street.
1901	MACLEAN, WILLIAM, JR.....812 Penn Square Building.
1895	MAGILL, EDWARD W.....1540 Land Title Building.
1910	MAGUIRE, FRANCIS LYTTLETON....1420 Chestnut street.
1904	MANDEL, DAVID, JR.....606 Chestnut street.
1906	MARSH, JOHN CRETH.....Stephen Girard Building.
1910	MARTIN, J. FREDERICK.....417 Bulletin Building.
1895	MARTIN, J. WILLIS.....658 City Hall.
1904	MASON, WILLIAM CLARK.....614 Franklin Building.
1895	MAXWELL, ROBERT D.....810 West End Trust Building.
1899	MAYER, CLINTON O.....201 Bailey Building.
1910	MCADAMS, FRANCIS M.....1416 South Penn Square.
1902	MCCALL, WILLIAM E., JR.....212 Stephen Girard Building.
1904	MCCARTHY, HENRY A.....321 Chestnut street.
1896	MCCOLLIN, EDWARD G.....514 Walnut street.
1895	MCCOUCH, H. GORDON.....750 Bullitt Building.
1903	MCCOY, JOSEPH D.....1601 Morris Building.
1895	MCCULLEN, JOSEPH P.....1008 Land Title Building.
1902	MCENERY, M. J.....1328 Chestnut street.
1904	MCGLATHERY, THOMAS D.....819 Land Title Building.
1901	MCILHENNY, FRANCIS S.....1001 Chestnut street.
1904	MCINNES, WALTER S.....205 Franklin Building.
1903	MCKEEHAN, CHARLES L.....321 Chestnut street.
1902	McMICHAEL, CHARLES B.....416 Harrison Building.

Year of  
Admission

## PHILADELPHIA COUNTY—continued

1908	McMULLAN, JAMES .....	750 Bullitt Building.
1902	McNEAL, J. H. ....	606 Girard Building.
1902	MEAD, GLENN C. ....	511 Crozer Building.
1902	MEAGHER, THOMAS J. ....	1405 Real Estate Trust Building.
1895	MEIGS, WILLIAM M. ....	460 Drexel Building.
1895	MELLORS, JOSEPH .....	528 Walnut street.
1895	MEREDITH, WILLIAM M. ....	246 South Seventeenth street.
1895	MERRILL, JOHN HOUSTON. ....	1318 Stephen Girard Building.
1902	MICHENER, E. O. ....	1835-42 Land Title Building.
1904	MIDDLETON, ALLEN C. ....	1118 Chestnut street.
1910	MILLER, ALFRED S. ....	1420 Chestnut street.
1895	MILLER, E. SPENCER. ....	N. E. Cor. 13th and Chestnut sts.
1910	MILLIGAN, OSWALD M. ....	1126 Stephen Girard Building.
1904	MIRKIL, I. HAZLETON. ....	522 Stephen Girard Building.
1900	MITCHELL, JAMES T. ....	1722 Chestnut street.
1904	MITCHESON, JOSEPH MACGREGOR. ....	605 Real Estate Trust Building.
1903	MOISE, ALBERT L. ....	900 Chestnut street.
1902	MONTGOMERY, W. M. ....	1331 Land Title Building.
1904	MONTGOMERY, W. W., JR. ....	Land Title Building.
1895	MOORE, ALFRED. ....	618 North American Building.
1902	MOORE, H. W. ....	700 West End Trust Building.
1897	MORGAN, CHARLES E., JR. ....	934 Land Title Building.
1905	MORRIS, ROLAND S. ....	1617 Land Title Building.
1895	MORRIS, WILLIAM .....	604 Franklin Bank Building.
1902	MORRIS, W. NORMAN. ....	1120 Chestnut street.
1902	MORRIS, WILLIAM S. ....	437 Land Title Building.
1908	MUNSON, GEORGE S. ....	750 Bullitt Building.
1902	MURPHY, J. JOSEPH. ....	1415 Filbert street.
1909	MURPHY, THOS. E. ....	822 North American Building.
1896	NEILSON, WILLIAM D. ....	703 North American Building.
1902	NEWBOURG, FREDERICK C., JR. ....	411 Real Estate Trust Building.
1895	NICHOLS, H. S. PRENTISS. ....	231 Broad Street Station.
1899	NORRIS, G. HEIDE. ....	437-41 Land Title Building.
1908	NORRIS, WILLIAM F. ....	1530 Locust street.
1907	ORLEMANN, HENRY P. ....	407 Franklin Building.
1895	PAGE, HOWARD W. ....	700 West End Trust Building.
1895	PAGE, S. DAVIS. ....	"
1910	PARKINSON, THOMAS I. ....	133 South Twelfth street.
1896	PATTERSON, G. STUART. ....	Broad Street Station.
1906	PATTERSON, JOHN M. ....	1420 Chestnut street.
1895	PATTERSON, T. ELLIOTT. ....	Franklin Building.
1896	PAUL, J. RODMAN. ....	505 Chestnut street.
1898	PENNEWILL, WALTON. ....	401 Stephen Girard Building.
1896	PENNYPACKER, SAMUEL W. ....	Pennypacker's Mills, Pa.

Year of Admission	PHILADELPHIA COUNTY—continued
1895	PENROSE, BOIES.....Arcade Building.
1904	PEPPER, B. FRANKLIN.....1438 Land Title Building.
1895	PEPPER, GEORGE WHARTON....."
1895	PERKINS, EDWARD L.....4047 Spruce street.
1901	PETTIT, HORACE.....705 Witherspoon Building.
1895	PHILLIPS, ALFRED I.....705 Land Title Building.
1902	PILE, CHARLES H.....512 Walnut street.
1898	PORTER, WILLIAM WAGENER.....1106 Commonwealth Trust Bldg.
1895	POTTER, SHELDON.....800 West End Trust Building.
1910	POWELL, HUMBERT B.....1200 Betz Building.
1895	PRICHARD, FRANK P.....1335-43 Land Title Building.
1902	PUSEY, FREDERICK T.....803 Bailey Building.
1902	RALSTON, ROBERT.....1326 Spruce street.
1910	RAMBO, ORMOND.....925 Chestnut street.
1895	RAWLE, FRANCIS.....1004 West End Trust Building.
1902	RAYMOND, EUGENE.....1432 South Penn Square.
1895	READ, JOHN R.....328 Chestnut street.
1902	REATH, THEODORE W.....Arcade Building.
1902	REATH, THOMAS....."
1902	REBER, J. HOWARD.....1001 Chestnut street.
1895	REED, JOSEPH A.....1112 Stephen Girard Building.
1902	REEVES, FREDERICK R.....602 Betz Building.
1908	REILLY, PAUL.....Franklin Bank Building.
1903	REMAK, GUSTAVUS, JR.....360 Bullitt Building.
1895	REX, WALTER E.....524 Walnut street.
1895	RHOADS, JOSEPH R.....514 Walnut street.
1904	RIDGWAY, THOMAS.....310 North American Building.
1908	ROBERTS, C. WILSON.....701 Franklin Building.
1901	ROBERTS, OWEN J.....1328 Chestnut street.
1902	ROBINSON, D. STEWART.....812 Girard Building.
1895	ROBINSON, V. GILPIN.....1218 Stephen Girard Building.
1902	RODMAN, WALTER C.....1420 Chestnut street.
1909	ROGERS, JAMES S.....602 Commonwealth Building.
1906	ROSENBERGER, EMIL.....523 Chestnut street.
1908	ROTAN, SAMUEL P.....666 City Hall.
1895	ROTHERMEL, P. F., JR.....Land Title Building.
1895	RUMSEY, HORACE M.....Stephen Girard Building.
1910	RUNK, LOUIS BARCROFT.....328 Chestnut street.
1902	RYAN, MICHAEL J.....908 Girard Building.
1902	SANSON, ALBERT W.....501 Bailey Building.
1906	SAUL, WALTER BIDDLE.....1835 Land Title Building.
1900	SAVIDGE, FRANK R.....506 Walnut street.
1895	SAVIDGE, JOSEPH.....1201 Chestnut street.
1910	SAYRE, CHARLES H.....740 Land Title Building.
1899	SCARBOROUGH, HENRY W.....522 Walnut street.

Year of  
Admission

## PHILADELPHIA COUNTY—continued

1898	SCHOFIELD, CHARLES S.....	N. E. Cor. Broad and Arch streets.
1895	SCOTT, HENRY J.....	Penn Square Building.
1895	SCOTT, JOHN, JR.....	1012 Stephen Girard Building.
1895	SCOTT, JOHN M.....	625 Walnut street.
1904	SEIBERLICH, EDWARD B.....	1217 Land Title Building.
1902	SHAPLEY, E. COOPER.....	316 Stephen Girard Building.
1901	SHATTUCK, FRANK R.....	Land Title Building.
1895	SHERMAN, CHARLES P.....	903-4 Mutual Life Building.
1906	SHICK, ROBERT P.....	723 North American Building.
1895	SHIELDS, A. S. L.....	200 Betz Building.
1899	SHOEMAKER, WILLIAM H.....	1420 Chestnut street.
1895	SHOYER, FREDERICK J.....	1000 Penn Square Building.
1895	SIMPSON, ALEX., JR.....	1005 Morris Building.
1904	SINNICKSON, CHARLES.....	411 Real Estate Trust Building.
1902	SLATTERY, JOSEPH A.....	931 Land Title Building.
1895	SMITH, ALFRED PERCIVAL.....	704 Franklin Bank Building.
1895	SMITH, LEWIS LAWRENCE.....	1011 Chestnut street.
1902	SMITH, R. STUART.....	934 Land Title Building.
1904	SMITH, THOMAS KILBY.....	1006 Land Title Building.
1895	SMITH, WALTER GEORGE.....	"
1895	SMITH, WILLIAM RUDOLPH.....	"
1899	SMITHERS, WILLIAM W.....	1100 Land Title Building.
1902	SMYTH, DAVID J.....	707-8-9 Girard Building.
1905	SMYTH, WILLIAM J.....	1328 Chestnut street.
1910	SOBERNHEIMER, FREDERICK A.....	825 Stephen Girard Building.
1910	SOBERNHEIMER, FREDERICK A., JR..	"
1910	SPALDING, HENRY .....	618 North American Building.
1895	SPARHAWK, JOHN, JR.....	400 Chestnut street.
1895	STAAKE, WILLIAM H.....	501 Franklin Building.
1904	STAAKE, WILLIAM W.....	"
1895	STENGER, WILLIAM S.....	1420 Chestnut street.
1909	STEWART, DANIEL A.....	119 South Fourth street.
1902	STEWART, WILLIAM M., JR.....	1242 Land Title Building.
1895	STILLWELL, JAMES C.....	727 Walnut street.
1910	STOCKWELL, HERBERT G.....	831 Land Title Building.
1895	STOEVEER, WILLIAM C.....	727 Walnut Street.
1910	STRONG, JOHN M.....	West End Trust Building.
1896	STUTZBACH, MARTIN H.....	614 Commonwealth Trust Bldg.
1910	SUTTON, ISAAC C.....	301 Franklin Building.
1896	SUTTON, W. HENRY.....	133 South Twelfth street.
1904	SWARTLEY, FRANCIS K.....	1133 Land Title Building.
1900	TAULANE, JOSEPH H.....	1201 Stephen Girard Building.
1895	TAYLOR, CARTER BERKELEY.....	904 Land Title Building.
1902	TAYLOR, JOSEPH T.....	Penn Square Building.
1902	TAYLOR, SAMUEL J.....	New Land Title Building.



Year of Admission	PHILADELPHIA COUNTY—continued
1895	TERRY, HENRY C.....603 Hale Building.
1902	THOLE, FRANCIS H.....600 Penn Square Building.
1896	THOMAS, SAMUEL HINDS.....308 Walnut street.
1900	THOMPSON, HENRY C., JR.....2015 Land Title Building.
1898	THOMPSON, J. WHITAKER.....1107 Girard Building.
1895	TODD, M. HAMPTON.....133 South Twelfth street.
1897	TOWNSEND, J. B., JR.....715 Walnut street.
1900	TRACY, HENRY M.....741 Land Title Building.
1902	TURNER, WILLIAM J.....927 Chestnut street.
1900	TUSTIN, ERNEST L.....1420 Chestnut street.
1906	VALE, RUBY R.....1540 Land Title Building.
1895	VAN DUSEN, GEORGE R.....1012 Stephen Girard Building.
1896	VAN HORN, CHARLES F.....614 Witherspoon Building.
1899	VON MOSCHZISKER, ROBERT.....532 Walnut street.
1904	WAGNER, GEORGE M.....201 South Twelfth street.
1908	WALKER, WINFIELD S.....604 Franklin Bank Building.
1902	WALLACE, W. S.....707 Bailey Building.
1902	WATERS, ASA W.....1302 Real Estate Trust Building.
1896	WEAVER, JOHN.....1416 South Penn Square.
1904	WEIL, ARTHUR E.....1217 Land Title Building.
1895	WEIMER, ALBERT B.....119 South Fourth street.
1895	WETHERILL, CHARLES.....N. E. Cor. 15th and Walnut streets.
1901	WETHERILL, JOHN LAWRENCE.....1302 Commonwealth Trust Bldg.
1895	WHITE, ELLAS H.....700 West End Trust Building.
1902	WHITE, JOHN J.....260 Bullitt Building.
1902	WHITE, THOMAS EARLE.....1201 Stephen Girard Building.
1903	WHITE, THOS. RAEburn.....700 West End Trust Building.
1895	WHITE, WILLIAM, JR.....1302 Commonwealth Trust Bldg.
1896	WILER, ALFRED DAY.....1436 Land Title Building.
1907	WILLARD, WALTER.....505 Betz Building.
1899	WILLIAMS, IRA JEWELL.....1005 Morris Building.
1895	WILLIAMS, J. HENRY.....133 South Twelfth street.
1904	WILLIAMS, PARKER S.....711 Arcade Building.
1904	WILLIAMS, THOMAS S.....560 Drexel Building.
1907	WILSON, JOSEPH R.....606 Commonwealth Building.
1901	WILSON, W. C.....1000-06 Penn Square Building.
1910	WILSON, WILLIAM H.....400 Penn Square Building.
1895	WILTbank, WILLIAM W.....City Hall.
1910	WINDLE, FREDERICK F.....1107 Land Title Building.
1895	WINTERSTEEN, A. H.....900 Girard Building.
1895	WISTER, WILLIAM ROTCH.....505 Chestnut street.
1899	WOLFF, OTTO.....1002 Betz Building.
1908	WOOD, CLEMENT B.....934 Land Title Building.
1895	WOOD, R. FRANCIS.....328 Chestnut street.

Year of  
Admission

## PHILADELPHIA COUNTY—continued

1895	WOODRUFF, CLINTON ROGERS.....	121 South Broad street.
1910	YEAKLE, J. MORRIS .....	1307 Land Title Building.
1901	YOUNG, SYDNEY.....	642 Land Title Building.
1904	ZIEGLER, CHARLES F.....	209 South Sixth street.
1898	ZUG, CHARLES K.....	Commonwealth Trust Building.

## PIKE COUNTY

1905	BAKER, HARRY T.....	Milford.
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## SCHUYLKILL COUNTY

1910	BURKE, M. M.....	Pottsville.
1895	MOYER, JOSEPH W.....	"
1908	ROADS, GEORGE M.....	"
1902	SCHALCK, A. W.....	"

## SOMERSET COUNTY

1908	COOPER, FRANK.....	Wellersburg.
1902	KIERNAN, EDMUND E.....	Somerset.
1897	KOONTZ, W. H.....	"
1895	PUGH, JAMES L.....	"
1895	RUPPEL, W. H.....	"
1895	UHL, JOHN H.....	"

## SULLIVAN COUNTY

1902	WALSH, ALPHONSEUS .....	Dushore.
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## SUSQUEHANNA COUNTY

1899	SMITH, A. B., JR.....	Montrose.
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## TIOGA COUNTY

1906	MARSH, H. F.....	Wellsboro.
1907	MERRICK, GEORGE W.....	"

## UNION COUNTY

1897	BAKER, J. THOMPSON.....	Lewisburg.
1895	GLOVER, HORACE PELLMAN.....	Mifflinburg.
1895	HAYES, ALFRED .....	Lewisburg.
1895	LEISER, ANDREW ALBRIGHT.....	"
1897	LINN, PHILIP B.....	"
1895	McCLURE, HAROLD M.....	"

## VENANGO COUNTY

1910	ASH, ISAAC .....	Oil City.
1895	HEYDRICK, CHRISTOPHER .....	Franklin.
1895	OSMER, J. H.....	"
1910	SPEER, PETER M. ....	Oil City,

Year of  
Admission

## WARREN COUNTY

1902	ALLEN, WILLIAM HARRISON.....	Warren.
1895	BALL, D. I.....	"
1901	BESHLIN, E. H.....	"
1895	HINCKLEY, WATSON D.....	"
1901	LINDSEY, EDWARD .....	"
1897	RICE, WILLIAM E.....	"
1903	SCHOFIELD, JOSEPH A.....	"
1900	STONE, C. W.....	"

## WASHINGTON COUNTY

1895	BROWNSON, JAMES I.....	Washington.
1907	DONNAN, JOHN H.....	"
1908	HAZZARD, VERNON .....	Monongahela City.
1907	IRWIN, R. W.....	Washington.
1907	LINN, ANDREW M.....	"
1895	McILVAINE, JOHN A.....	"
1902	MYERS, HARRY RUSSELL.....	"
1895	TAYLOR, JAMES F.....	"
1902	TEMPLETON, ALEXANDER M.....	"
1900	WILEY, J. A.....	"

## WAYNE COUNTY

1896	GREENE, HOMER .....	Honesdale.
1895	SEARLE, ALONZO T.....	"
1895	WILSON, HENRY .....	"

## WESTMORELAND COUNTY

1909	CUNNINGHAM, JESSE E. B.....	Greensburg.
1897	DOTY, LUCIEN W.....	"
1896	GAITHER, PAUL H.....	"
1902	HAMOR, GEORGE D.....	New Kensington.
1897	HEAD, JOHN B.....	Greensburg.
1897	McCONNELL, A. D.....	"
1895	MOORHEAD, JAMES S.....	"
1895	ROBBINS, EDWARD E.....	"
1897	WOODS, CYRUS E.....	"

## WYOMING COUNTY

1908	HARDING, H. STANLEY.....	Tunkhannock.
1895	PIATT, JAMES WILSON.....	"
1895	TERRY, CHARLES E.....	"

Year of Admission	YORK COUNTY	
1897	BITTENDER, JOHN W.....	York.
1901	BLACK, JERE S.....	"
1895	COCHRAN, RICHARD E.....	"
1902	GEMMILL, W. B.....	"
1896	HAWKINS, CHARLES A.....	"
1901	HOOBER, JOHN A.....	"
1902	KLINEDINST, DAVID P.....	"
1898	MCCALL, JAMES ST. CLAIR.....	"
1905	NEFF, GEORGE E.....	"
1895	NILES, HENRY C.....	"
1896	ROSS, N. SARGENT.....	"
1902	ROUSE, JOHN L.....	"
1905	SCHMIDT, GEORGE S.....	"
1895	STEWART, W. F. BAY.....	"
1895	STRAWBRIDGE, JOSEPH R.....	"
1902	VANDERSLOOT, JOHN E.....	"
1896	WILLIAMS, SMYSER .....	"
1904	YOST, DONALD H.....	"

## ALPHABETICAL LIST OF MEMBERS

Year of Admission		
1908	ABBOTT, EDWIN M.....	Philadelphia.
1900	ACHESON, M. W., JR.....	Pittsburgh.
1910	ACKER, J. HENRY RADEY...	Philadelphia.
1907	ADAMS, JACOB B.....	Uniontown, Fayette Co.
1895	ADAMS, JOHN STOKES.....	Philadelphia.
1895	ADDAMS, CHARLES P.....	Carlisle, Cumberland Co.
1900	ADLER, FRANCIS COPE.....	Philadelphia.
1897	AIKEN, ROBERT K.....	New Castle, Lawrence Co.
1899	ALCORN, JAMES.....	Philadelphia.
1902	ALEXANDER, BENJAMIN ....	"
1899	ALEXANDER, LUCIEN H.....	"
1895	ALEXANDER, W. SCOTT.....	McConnellsburg, Fulton Co.
1895	ALEXANDER, WILLIAM.....	Chambersburg, Franklin Co.
1902	ALLEN, WILLIAM HARRISON.	Warren, Warren Co.
1895	ALRICKS, LEVI B.....	Harrisburg, Dauphin Co.
1895	AMES, HERBERT T.....	Williamsport, Lycoming Co.
1906	AMMON, SAMUEL A.....	Pittsburgh.
1902	AMRAM, DAVID W.....	Philadelphia.
1899	ANDERSON, J. N.....	Pittston, Luzerne Co.
1899	ANDERSON, WILLIAM Y. C..	Philadelphia.
1895	ANDRE, JOHN K.....	"
1900	ANGNEY, ALLAN B.....	Pittsburgh.
1899	ANSART, FELIX.....	Wilkes-Barre, Luzerne Co.
1907	APPEL, JOHN W.....	Lancaster, Lancaster Co.
1903	APPEL, WILLIAM N.....	"
1896	ARCHBALD, R. W.....	Scranton, Lackawanna Co.
1902	ARNOLD, ARTHUR S.....	Philadelphia.
1908	ARTHUR, EDMUND W.....	Pittsburgh.
1910	ASH, ISAAC .....	Oil City, Venango Co.
1895	ASHHURST, RICHARD L. . .	Philadelphia.
1899	ATHERTON, THOMAS H.....	Wilkes-Barre, Luzerne Co.
1904	ATLEE, BENJ. C.....	Lancaster, Lancaster Co.
1910	AUBREY, GEORGE W. ....	Allentown, Lehigh Co.
1895	AUDENREID, CHARLES Y....	Philadelphia.
1908	AUTEN, VORIS .....	Mt. Carmel, Northumberland Co.
1895	BACKENSTOE, CLAYTON H..	Harrisburg, Dauphin Co.
1895	BAER, GEORGE F.....	Reading, Berks Co.
1895	BAILEY, CHARLES L., JR....	Harrisburg, Dauphin Co.
1905	BAILEY, THOMAS S.....	Huntingdon, Huntingdon Co.
1900	BAKER, C. L.....	Erie, Erie Co.
1905	BAKER, HARRY T.....	Milford, Pike Co.

Year of  
Admission

1897	BAKER, J. THOMPSON.....	Lewisburg,	Union Co.
1897	BALDRIGE, THOMAS J.....	Hollidaysburg,	Blair Co.
1895	BALL, D. I.....	Warren,	Warren Co.
1895	BALLARD, ELLIS AMES.....	Philadelphia.	
1902	BALPH, ROWLAND A.....	Pittsburgh.	
1895	BAMBERGER, ALBERT J.....	Philadelphia.	
1895	BAMBERGER, L. J.....	"	
1897	BANKS, J. N.....	Indiana,	Indiana Co.
1895	BARBER, LAIRD H.....	Mauch Chunk,	Carbon Co.
1895	BARKER, AUGUSTINE V.....	Ebensburg,	Cambria Co.
1895	BARNES, J. HAMPTON.....	Philadelphia.	
1907	BARNETT, GEORGE R.....	Harrisburg,	Dauphin Co.
1897	BARRATT, NORRIS S.....	Philadelphia.	
1902	BARTLETT, CHARLES E.....	"	
1902	BASEHORE, SAMUEL E.....	Mechanicsburg,	Cumberland Co.
1902	BASHORE, CHESTER C.....	Carlisle,	"
1908	BAUERLE, ALBERT T.....	Philadelphia.	
1897	BEAL, J. H.....	Pittsburgh.	
1898	BEATTY, SUZANNE S.....	"	
1895	BEAVER, JAMES A.....	Bellefonte,	Centre Co.
1908	BECK, JAMES M.....	New York City.	
1895	BEDFORD, GEORGE R.....	Wilkes-Barre,	Luzerne Co.
1899	BEDFORD, J. CLAUDE.....	Philadelphia.	
1895	BEEBER, DIMNER.....	"	
1908	BEGGS, ROBERT A., JR.....	"	
1895	BEITLER, ABRAHAM M.....	"	
1905	BEITLER, HAROLD B.....	"	
1900	BELL, JOHN CROMWELL.....	"	
1905	BENNER, THOMAS M.....	Pittsburgh.	
1896	BERGNER, CHARLES H.....	Harrisburg,	Dauphin Co.
1907	BERNTHEIZEL, CLEON N.....	Columbia,	Lancaster Co.
1909	BERTOLET, WELLINGTON M.....	Reading,	Berks Co.
1895	BERTOLETTE, FRED.....	Mauch Chunk,	Carbon Co.
1901	BESHLIN, E. H.....	Warren,	Warren Co.
1895	BIDDLE, CHARLES.....	Philadelphia.	
1895	BIDDLE, EDWARD W.....	Carlisle,	Cumberland Co.
1904	BIKLE, HENRY WOLF.....	Philadelphia.	
1897	BITTENGER, JOHN W.....	York,	York Co.
1901	BLACK, JERE S.....	"	"
1900	BLAKELEY, W. A.....	Pittsburgh.	
1895	BLANCHARD, JOHN.....	Bellefonte,	Centre Co.
1906	BLAND, H. WILLIS.....	Reading,	Berks Co.
1897	BLOOD, CYRUS H.....	Brookville,	Jefferson Co.
1902	BOCKIUS, MORRIS R.....	Philadelphia.	

Year of Admission		
1901	BODINE, W. B., JR.....	Philadelphia.
1907	BOHLEN, FRANCIS H.....	"
1896	BONSALL, EDWARD H.....	"
1900	BORNEMAN, HENRY S.....	"
1902	BOUTON, J. W.....	Smethport, McKean Co.
1899	BOWERS, L. S.....	Philadelphia.
1895	BOWERS, O. C.....	Chambersburg, Franklin Co.
1902	BOWKER, GEORGE C.....	Philadelphia.
1895	BOWMAN, SIMON S.....	Millersburg, Dauphin Co.
1895	BOWMAN, WENDELL P....	Philadelphia.
1897	BOWSER, S. F.....	Butler, Butler Co.
1895	BOYD, A. D.....	Uniontown, Fayette Co.
1895	BOYD, PETER.....	Philadelphia.
1904	BOYER, HERBERT M.....	"
1903	BOYLE, JOHN.....	Uniontown, Fayette Co.
1901	BRACKEN, FRANCIS B.....	Philadelphia.
1900	BRADY, JOHN T.....	Harrisburg, Dauphin Co.
1909	BRANNAN, ROBERT.....	Philadelphia.
1895	BRECK, E. Y.....	Pittsburgh.
1895	BREGY, LOUIS.....	Philadelphia.
1903	BREITINGER, FRED. L.....	"
1902	BREITINGER, J. L.....	"
1902	BRENNEN, WILLIAM J.....	Pittsburgh.
1904	BRINTON, JASPER Y.....	Philadelphia.
1901	BRINTON, JOSEPH HILL....	"
1902	BRINTON, SHARSWOOD.....	"
1902	BROMLEY, B. GORDON.....	"
1902	BROOKS, EDWARD, JR.....	"
1903	BROOKS, JOHN B.....	Erie, Erie Co.
1904	BROOMALL, JOHN M.....	Media, Delaware Co.
1895	BROWN, A. M.....	Pittsburgh.
1895	BROWN, FRANCIS SHUNK...	Philadelphia.
1895	BROWN, HENRY P.....	"
1895	BROWN, J. HAY.....	Lancaster, Lancaster Co.
1895	BROWN, JOHN A.....	Philadelphia.
1895	BROWN, JOHN D.....	Pittsburgh.
1895	BROWN, JOHN DOUGLASS...	Philadelphia.
1895	BROWN, MARSHALL.....	Pittsburgh.
1902	BROWN, REYNOLDS D. ....	Philadelphia.
1895	BROWN, THOMAS S.....	Pittsburgh.
1904	BROWN, WM. ALEXANDER..	Philadelphia.
1896	BROWN, WILLIAM FINDLAY..	"
1901	BROWNBACK, HENRY M....	Norristown, Montgomery Co.
1895	BROWNSON, JAMES I.....	Washington, Washington Co.

Year of  
Admission

1902	BUCKMAN, J. H.....	Philadelphia.	
1895	BUDD, HENRY.....	"	
1907	BUNTING, JOSEPH T.....	"	
1895	BURGWIN, AUGUSTUS P....	Pittsburgh.	
1895	BURGWIN, GEORGE C.....	"	
1910	BURKE, M. M. ....	Pottsville,	Schuylkill Co.
1900	BURLEIGH, CLARENCE.....	Pittsburgh.	
1895	BURNETT, WILLIAM H.....	Philadelphia.	
1895	BURR, JAMES E.....	Scranton,	Lackawanna Co.
1910	BUSHONG, ROBERT GREY ...	Reading,	Berks Co.
1908	BUTLER, GEORGE T.....	Media,	Delaware Co.
1910	BUTLER, J. EDGAR .....	Philadelphia.	
1896	BUTLER, WILLIAM, JR.....	West Chester,	Chester Co.
1902	CADWALADER, JOHN, JR....	Philadelphia.	
1896	CADWALADER, RICHARD M..	"	
1902	CALVERT, GEORGE H.....	Pittsburgh.	
1909	CAMPBELL, GEORGE J.....	Bellevue,	Allegheny Co.
1896	CAMPBELL, JAMES D.....	Wyncote,	Montgomery Co.
1904	CAMPBELL, JAMES F.....	Philadelphia.	
1901	CAMPBELL, JOHN M.....	"	
1895	CANDOR, ADDISON.....	Williamsport,	Lycoming Co.
1895	CARE, R. SHERMAN.....	Harrisburg,	Dauphin Co.
1896	CARPENTER, J. McF.....	Pittsburgh.	
1898	CARR, GEORGE W.....	Philadelphia.	
1896	CARR, WILLIAM WILKINS..	"	
1895	CARSON, HAMPTON L.....	"	
1909	CARVER, ALEXANDER HENRY.	"	
1897	CARVER, CHARLES.....	"	
1902	CASSEL, JOHN R.....	"	
1895	CATTELL, HENRY S.....	"	
1896	CHALFANT, GEORGE N.....	Pittsburgh.	
1908	CHALFANT, JOHN W., JR....	"	
1908	CHALLENGER, W. A.....	"	
1896	CHANTLER, THOMAS D.....	"	
1902	CHAPMAN, S. SPENCER.....	Philadelphia.	
1908	CHILDS, LOUIS M.....	Norristown,	Montgomery Co.
1895	CLAPP, B. FRANK.....	Philadelphia.	
1895	CLARK, B. M.....	Punxsutawney,	Jefferson Co.
1904	CLARK, FREDERIC L.....	Philadelphia.	
1895	CLEMENT, CHARLES M.....	Sunbury,	Northumberland Co.
1895	CLEVELAND, EMERSON J.....	Canton,	Bradford Co.
1902	COCHRAN, A. A.....	Chester,	Delaware Co.
1895	COCHRAN, RICHARD E.....	York,	York Co.
1899	CODDING, JOHN W.....	Towanda,	Bradford Co.
1902	CODY, FRANK M.....	Philadelphia.	



Year of Admission		
1902	COHEN, BERT.....	New York City.
1895	COLAHAN, JOHN B., JR.....	Philadelphia.
1900	CONARD, C. WILFRED.....	"
1904	CONLEN, WILLIAM J.....	"
1910	CONNOR, WILLIAM T. ....	"
1902	CONRAD, W. N.....	Brookville, Jefferson Co.
1908	COOPER, FRANK.....	Wellersburg, Somerset Co.
1899	COOPER, SAMUEL W.....	Philadelphia.
1895	CORBET, CHARLES.....	Brookville, Jefferson Co.
1897	CORBETT, DON C.....	Clarion, Clarion Co.
1899	CORBIN, J. T.....	Athens, Bradford Co.
1905	CORE, JOHN McMULLAN....	Uniontown, Fayette Co.
1895	CORNWELL, GIBBONS GRAY	West Chester, Chester Co.
1895	CORNWELL, ROBERT T.....	"
1902	COULSTON, C. W.....	Philadelphia.
1908	COYLE, JOHN A.....	Lancaster, Lancaster Co.
1895	CRAIG, EDWIN S.....	Pittsburgh.
1895	CRAIG, J. H.....	Altoona, Blair Co.
1902	CRAWFORD, CHARLES S....	Pittsburgh.
1906	CROCKER, WILLIAM D.....	Williamsport, Lycoming Co.
1904	CROWLEY, JERE J.....	Philadelphia.
1897	CRUMRINE, BOYD.....	Pittsburgh.
1903	CULBERTSON, FRED. W.....	Lewistown, Mifflin Co.
1903	CULBERTSON, HORACE J.....	"
1909	CUNNINGHAM, JESSE E. B..	Greensburg, Westmoreland Co.
1902	CUNNINGHAM, SAMUEL....	Indiana, Indiana Co.
1900	CURTZE, H. J.....	Erie, Erie Co.
1895	CUYLER, THOMAS DEWITT..	Philadelphia.
1900	DACOSTA, CHARLES F.....	"
1900	DAHLINGER, CHARLES W...	Pittsburgh.
1902	DALLETT, MORRIS.....	Philadelphia.
1895	DALZELL, JOHN.....	Pittsburgh.
1898	DALZELL, WILLIAM S.....	"
1908	DAMPMAN, JOHN B.....	Reading, Berks Co.
1901	DANA, RICHARD FALLS....	New Castle, Lawrence Co.
1900	DANA, SAMUEL W.....	"
1902	DANIELS, BENJAMIN.....	Philadelphia.
1910	DANIELS, MAURICE V. ....	"
1898	DANNEHOWER, WILLIAM F.	Norristown, Montgomery Co.
1898	DARLING, THOMAS.....	Wilkes-Barre, Luzerne Co.
1895	DARLINGTON, GEORGE E....	Media, Delaware Co.
1903	DARRAGH, ROBERT W.....	Beaver, Beaver Co.
1902	DAVIS, HOWARD A.....	Philadelphia.
1910	DAVIS, J. WARREN .....	"
1906	DAVISON, WATSON R.....	Waynesboro, Franklin Co.

Year of  
Admission

1895	DECHERT, HENRY M.....	Philadelphia.	
1895	DECHERT, HENRY T.....	"	
1897	DEEMER, WILLIAM RUSSELL.	Williamsport,	Lycoming Co.
1903	DEMING, GEORGE.....	Philadelphia.	
1895	DERR, CYRUS G.....	Reading,	Berks Co.
1895	DESHLER, JAMES B.....	Allentown,	Lehigh Co.
1895	DEVELIN, JAMES AYLWARD.	Philadelphia.	
1909	DEYSHER, ELWOOD H.....	Reading,	Berks Co.
1901	DICKEY, JOHN, JR.....	Philadelphia.	
1909	DICKINSON, JOS. R.....	Reading,	Berks Co.
1902	DICKINSON, O. B.....	Chester.	Delaware Co.
1899	DICKSON, ARTHUR G.....	Philadelphia.	
1895	DICKSON, SAMUEL.....	"	
1898	DIMMICK, J. BENJAMIN....	Scranton.	Lackawanna Co.
1900	DIXON, EDWIN S.....	Philadelphia.	
1907	DONNAN, JOHN H.....	Washington,	Washington Co.
1905	DORRIS, JOHN D.....	Huntingdon,	Huntingdon Co.
1897	DOTY, LUCIEN W.....	Greensburg,	Westmoreland Co.
1901	DOUGHERTY, D. WEBSTER...	Philadelphia.	
1900	DOUGLASS, E. P.....	McKeesport,	Allegheny Co.
1905	DOUGLASS, WALTER C., JR..	Philadelphia.	
1902	DOWNING, CHARLES H.....	"	
1896	DRAKE, FREDERICK S.....	"	
1905	DROVIN, GEORGE ALBERT....	"	
1895	DUANE, RUSSELL.....	"	
1905	DUBOIS, HENRY M.....	"	
1902	DUFF, JOHN BOYD.....	Pittsburgh.	
1895	DULL, CASPER.....	Harrisburg,	Dauphin Co.
1910	DUMN, HARRY J. ....	Reading,	Berks Co.
1898	EABY, C. REESE.....	Lancaster,	Lancaster Co.
1901	EASTBURN, HUGH B.....	Doylestown,	Bucks Co.
1906	EASTMAN, FRANK M.....	Harrisburg,	Dauphin Co.
1904	EDMONDS, FRANKLIN S....	Philadelphia.	
1902	EDMUNDS, CHARLES H.....	"	
1902	EDMUNDS, HENRY R.....	"	
1904	EDWARDS, GEORGE J., JR....	"	
1896	EDWARDS, H. M.....	Scranton,	Lackawanna Co.
1903	EDWARDS, NICHOLAS M....	Williamsport,	Lycoming Co.
1902	EGGLESTON, CHARLES F....	Philadelphia.	
1904	EHRlich, FRANZ, JR.....	"	
1902	ELDER, IRVIN CAMERON....	Chambersburg,	Franklin Co.
1895	ELKIN, JOHN P.....	Indiana,	Indiana Co.
1899	ELLIOT, FRANK S.....	Philadelphia.	
1902	ELWELL, ISAAC.....	"	

Year of Admission		
1908	ELY, FRED. H.....	Ridgway, Elk Co.
1909	EMBERY, JOSEPH R.....	Philadelphia.
1896	ENDLICH, G. A.....	Reading, Berks Co.
1895	ENDSLEY, HARRY S.....	Johnstown, Cambria Co.
1895	ESHLEMAN, C. ROSS.....	Lancaster, Lancaster Co.
1906	ESHLEMAN, H. FRANK.....	" "
1895	EVANS, JOHN A.....	Pittsburgh.
1901	EVANS, MILLER D.....	Pottstown, Montgomery Co.
1895	EVANS, MONTGOMERY.....	Norristown, "
1895	EVANS, ROWLAND.....	Philadelphia.
1905	EVANS, WILLIAM D.....	Pittsburgh.
1895	EWING, NATHANIEL.....	Uniontown, Fayette Co.
1904	EWING, THOMAS.....	Pittsburgh.
1897	FAGAN, CHARLES A.....	"
1904	FAHY, THOMAS A.....	Philadelphia.
1910	FAHY, WALTER THOMAS..	"
1901	FALLS, WALLACE H.....	New Castle, Lawrence Co.
1907	FANNING, ADELBERT C.....	Towanda, Bradford Co.
1904	FARIES, EDGAR DUDLEY....	Philadelphia.
1905	FARR, CHESTER N., JR.....	"
1908	FAUGHT, ALBERT SMITH....	"
1902	FELL, DAVID N., JR.....	"
1895	FENSTERMAKER, THOMAS A.	"
1897	FERGUSON, WILLIAM C.....	"
1902	FISH, HENRY E.....	Erie, Erie Co.
1907	FISHER, GORDON.....	Pittsburgh.
1906	FISHER, JOHN S.....	Indiana, Indiana Co.
1909	FISHER, J. WILMER.....	Reading, Berks Co.
1897	FISHER, WILLIAM RIGHTER.	Philadelphia.
1902	FLAHERTY, JAMES A.....	"
1899	FLEITZ, FREDERIC W.....	Scranton, Lackawanna Co.
1902	FLETCHER, J. GILMORE....	Pittsburgh.
1910	FLETCHER, WM. MEADE ...	Philadelphia.
1905	FLOOD, NED ARDEN.....	Meadville, Crawford Co.
1900	FLOWERS, GEORGE W.....	Pittsburgh.
1895	FOLZ, LEON H.....	Philadelphia.
1905	FOLZ, STANLEY .....	"
1907	FORD, THOMAS J.....	Pittsburgh.
1902	FOUST, ELLIS E.....	Chambersburg, Franklin Co.
1895	FOX, EDWARD J.....	Easton, Northampton Co.
1898	FOX, GILBERT RODMAN....	Norristown, Montgomery Co.
1904	FOX, HENRY I.....	"
1905	FOX, HENRY K.....	Philadelphia.
1895	FOX, JOHN E.....	Harrisburg, Dauphin Co.
1909	FRAME, JOHN M.....	Reading, Berks Co.

Year of Admission		
1897	FRASHER, LUKE H.....	Uniontown, Fayette Co.
1895	FRAZER, ROBERT S.....	Pittsburgh.
1895	FREDERICKS, J. T.....	Williamsport, Lycoming Co.
1909	FREED, WALTER B.....	Reading, Berks Co.
1895	FREEZE, JOHN G.....	Bloomsburg, Columbia Co.
1895	FRIES, HENRY K.....	Philadelphia.
1902	FRONEFIELD, W. ROGER.....	Media, Delaware Co.
1895	FURTH, EMANUEL.....	Philadelphia.
1895	FUTRELL, WILLIAM H.....	"
1901	GABLE, VIVIAN FRANK.....	"
1896	GAITHER, PAUL H.....	Greensburg, Westmoreland Co.
1902	GALLUP, FRED. D.....	Smethport, McKean Co.
1895	GARMAN, JOHN M.....	Nanticoke, Luzerne Co.
1899	GATES, THOMAS S.....	Philadelphia.
1910	GAWTHROP, ROBERT S. ....	West Chester, Chester Co.
1904	GEARY, A. B.....	Chester, Delaware Co.
1902	GEMMILL, W. B.....	York, York Co.
1895	GEST, JOHN M.....	Philadelphia.
1895	GHEEN, JOHN J.....	West Chester, Chester Co.
1895	GILBERT, LYMAN D.....	Harrisburg, Dauphin Co.
1902	GILFILLAN, ALEXANDER.....	Pittsburgh.
1902	GILFILLAN, JOSEPH.....	Philadelphia.
1895	GILKYSOON, H. H.....	Phoenixville, Chester Co.
1895	GILL, HARRY B.....	Philadelphia.
1902	GILLAN, ARTHUR W.....	Chambersburg, Franklin Co.
1895	GILLAN, W. RUSH.....	"
1898	GILLESPIE, CHARLES D.....	Pittsburgh.
1905	GLASGOW, WILLIAM A., JR..	Philadelphia.
1895	GLOVER, HORACE PELLMAN..	Mifflinburg, Union Co.
1901	GOLDSMITH, AARON.....	Easton, Northampton Co.
1909	GOOD, D. CLARE.....	Philadelphia.
1902	GOODREAD, JOSEPH S.....	"
1895	GORDON, GEORGE B.....	Pittsburgh.
1900	GORDON, JAMES GAY.....	Philadelphia.
1895	GORDON, QUINCY A.....	Mercer, Mercer Co.
1895	GORMAN, WILLIAM.....	Philadelphia.
1895	GOWEN, FRANCIS I.....	"
1900	GRAHAM, GEORGE S.....	"
1906	GRANT, JEREMIAH K.....	Reading, Berks Co.
1902	GRAY, WILLIAM A.....	Philadelphia.
1896	GREEN, B. W.....	Emporium, Cameron Co.
1905	GREEN, HORACE P.....	Media, Delaware Co.
1896	GREENE, HOMER.....	Honesdale, Wayne Co.
1901	GREENWALD, JOSEPH L.....	Philadelphia.

Year of Admission		
1902	GRIFFITH, DAVID R., Jr....	Philadelphia.
1901	GRIFFITH, WARREN G.....	"
1897	GRIFFITH, WILLIAM A.....	Pittsburgh.
1897	GROSS, JOSEPH W.....	Philadelphia.
1906	GUMBES, FRANCIS M.....	"
1902	GUMMEY, CHARLES F.....	"
1900	GUNNISON, FRANK.....	Erie, Erie Co.
1895	GUTHRIE, GEORGE W.....	Pittsburgh.
1898	GUTHRIE, WALTER J.....	"
1901	HAGAN, A. C.....	Uniontown, Fayette Co.
1904	HAGER, CHARLES F.....	Lancaster, Lancaster Co.
1910	HAGGARTY, CORNELIUS, Jr.	Philadelphia.
1895	HAIG, ALFRED R.....	"
1904	HAIN, WILLIAM M.....	Harrisburg, Dauphin Co
1910	HAINES, WM. ELLIS .....	Williamsport, Lycoming Co.
1895	HALDEMAN, DONALD C....	Harrisburg, Dauphin Co.
1896	HALL, E. H.....	Media, Delaware Co.
1895	HALL, WILLIAM M., Jr....	Pittsburgh.
1908	HALLMAN, ELWOOD L.....	Norristown, Montgomery Co.
1897	HAMBLETON, CONRAD.....	Carlisle, Cumberland Co.
1902	HAMOR, GEORGE D.....	New Kensington, Westmoreland Co
1898	HAND, ISAAC P.....	Wilkes-Barre, Luzerne Co.
1902	HANNA, MEREDITH .....	Philadelphia.
1908	HARDING, H. STANLEY.....	Tunkhannock, Wyoming Co.
1909	HARE, THOMAS C.....	Altoona, Blair Co.
1895	HARGEST, THOMAS S.....	Harrisburg, Dauphin Co.
1895	HARGEST, WILLIAM M.....	"
1907	HARNISH, MARTIN M.....	Lancaster, Lancaster Co.
1901	HARRINGTON, AVERY D....	Philadelphia.
1908	HARRIS, HENRY O.....	Doylestown, Bucks Co.
1898	HARRIS, JOHN M.....	Scranton, Lackawanna Co.
1899	HARRISON, J. HARVEY.....	Pittsburgh.
1895	HARRITY, WILLIAM F.....	Philadelphia.
1895	HART, WILLIAM W.....	Williamsport, Lycoming Co.
1900	HASSLER, A. B.....	Lancaster, Lancaster Co.
1906	HATFIELD, HENRY R.....	Philadelphia.
1895	HAUSE, J. FRANK E.....	West Chester, Chester Co.
1909	HAVILAND, JOHN, JR.....	Phoenixville, "
1902	HAWKES, THOMAS G.....	Philadelphia.
1896	HAWKINS, CHARLES A....	York, York Co.
1906	HAWKINS, RICHARD H....	Pittsburgh.
1895	HAYES, ALFRED.....	Lewisburg, Union Co.
1902	HAYES, WILLIAM A.....	Philadelphia.
1895	HAYES, WILLIAM M.....	West Chester, Chester Co.
1900	HAYS, EDWARD F.....	Pittsburgh.

Year of Admission		
1895	HAZEN, AARON L.....	New Castle, Lawrence Co.
1908	HAZZARD, VERNON.....	Monongahela City, Washington Co.
1897	HEAD, JOHN B.....	Greensburg, Westmoreland Co
1901	HECKSCHER, STEVENS .....	Philadelphia.
1909	HEINLY, HARVEY F.....	Reading, Berks Co.
1909	HEINSLING, H. T.....	Altoona, Blair Co.
1896	HEMPHILL, JOSEPH.....	West Chester, Chester Co.
1899	HENDERSON, GEORGE.....	Philadelphia.
1907	HENDERSON, JOHN J.....	Meadville, Crawford Co.
1895	HENDERSON, J. WEBSTER....	Carlisle, Cumberland Co
1909	HENDERSON, ROBERT A.....	Altoona, Blair Co.
1895	HENRY, BAYARD.....	Philadelphia.
1895	HENSEL, WILLIAM U.....	Lancaster, Lancaster Co.
1901	HEPBURN, C. J.....	Philadelphia.
1895	HEPBURN, W. HORACE.....	"
1895	HERTZOG, D. M.....	Uniontown, Fayette Co.
1902	HERTZBERG, MAX.....	Philadelphia.
1895	HEYDRICK, CHRISTOPHER...	Franklin, Venango Co.
1904	HEYDT, HORACE.....	Mauch Chunk, Carbon Co.
1904	HIBBERD, DILWORTH P.....	Philadelphia.
1903	HICE, AGNEW.....	Beaver, Beaver Co.
1909	HICKS, WILLIAM L.....	Altoona, Blair Co.
1895	HIESTER, ISAAC.....	Reading, Berks Co.
1907	HINCKLEY, JOHN C.....	Philadelphia.
1895	HINCKLEY, WATSON D.....	Warren, Warren Co.
1903	HINDMAN, WILLIAM A.....	Clarion, Clarion Co.
1908	HINKSON, JOS. H.....	Chester, Delaware Co.
1896	HIPPLE, T. C.....	Lock Haven, Clinton Co.
1899	HOEFLER, HENRY A.....	Philadelphia.
1900	HOFFMAN, EDWARD F.....	"
1906	HOFFMAN, JOHN D.....	Bethlehem, Northampton Co.
1895	HOLAHAN, THOMAS B.....	Lancaster, Lancaster Co.
1895	HOLDING, ARCHIE McC.....	West Chester, Chester Co.
1898	HOLLAND, JAMES B.....	Philadelphia.
1906	HOLT, RICHARD S.....	Beaver, Beaver Co.
1901	HOOBER, JOHN A.....	York, York Co.
1895	HOPKINSON, EDWARD.....	Philadelphia.
1895	HOPWOOD, R. F.....	Uniontown, Fayette Co.
1904	HORWITZ, GEORGE Q.....	Philadelphia.
1895	HOSTETTER, ABRAHAM F....	Lancaster, Lancaster Co.
1907	HOTTENSTEIN, MARCUS S...	Allentown, Lehigh Co.
1902	HOWSON, CHARLES H.....	Philadelphia.
1897	HOYT, HENRY M.....	Washington, D. C.
1900	HUEY, ANDREW P.....	Kane, McKean Co.

Year of Admission		
1902	HUEY, ARTHUR B.....	Philadelphia.
1904	HUFFMAN, HARVEY.....	Stroudsburg, Monroe Co.
1902	HUNSICKER, CHARLES.....	Philadelphia.
1904	HUNSICKER, J. QUINCY.....	"
1899	HUNTER, JOHN P.....	Pittsburgh.
1902	HUNTER, RICHARD S.....	Philadelphia.
1910	HUTCHINSON, ARTHUR E...	"
1909	HUTTON, A. J. WHITE....	Chambersburg, Franklin Co.
1895	HYNEMAN, SAMUEL M....	Philadelphia.
1895	IMBRIE, A. M.....	Pittsburgh.
1895	INGHAM, J. C.....	Towanda, Bradford Co.
1910	IRVING, ROBERT W. ....	Carlisle, Cumberland Co.
1907	IRWIN, R. W.....	Washington, Washington Co.
1900	JACK, DAVID H.....	Bradford, McKean Co.
1906	JACK, SUMMERS M.....	Indiana, Indiana Co.
1899	JACOBS, FRANK .....	Allentown, Lehigh Co.
1895	JACOBS, MICHAEL WM....	Harrisburg, Dauphin Co.
1901	JAMES, HENRY A.....	Doylestown, Bucks Co.
1904	JAMES, HOWARD I.....	Bristol, "
1899	JENKINS, JOHN E.....	Wilkes-Barre, Luzerne Co.
1908	JENKINS, J. P. HALE.....	Norristown, Montgomery Co.
1896	JENKINS, THEO. F.....	Philadelphia.
1904	JENKS, ROBERT D.....	"
1900	JENNINGS, W. K.....	Pittsburgh.
1904	JESTER, WILLIAM B.....	Beverly, N. J.
1904	JOHNSON, ARCHIBALD T....	Philadelphia.
1895	JOHNSON, JOHN G.....	"
1903	JOHNSON, WILLIAM J.....	Uniontown, Fayette Co.
1906	JONES, CHARLES WARING...	Pittsburgh.
1902	JONES, G. VON PHUL.....	Philadelphia.
1895	JONES, J. LEVERING.....	"
1895	JONES, JAMES COLLINS....	"
1898	JONES, RICHMOND L.....	Reading, Berks Co.
1906	JOPSON, THOMAS W.....	Philadelphia.
1895	JORDAN, JOHN H.....	Bedford, Bedford Co.
1895	JUNKIN, JOSEPH DeF.....	Philadelphia.
1903	KAHLE, FREDERICK L.....	Pittsburgh.
1899	KANE, FRANCIS FISHER....	Philadelphia.
1909	KANTNER, HARRY F.....	Reading, Berks Co.
1899	KAST, IDA G.....	Mechanicsburg, Cumberland Co.
1895	KEATOR, JOHN F.....	Philadelphia.
1895	KEELER, E. WESLEY.....	Doylestown, Bucks Co.
1902	KEENE, GEORGE FRED.....	Philadelphia.
1895	KEFOVER, CHARLES F.....	Uniontown, Fayette Co.
1906	KEISER, HENRY P.....	Reading, Berks Co.

Year of  
Admission

1895	KELLER, HARRY.....	Bellefonte,	Centre Co.
1910	KELLER, HIRAM H. ....	Doylestown,	Bucks Co.
1901	KELLER, WILLIAM H.....	Lancaster,	Lancaster Co.
1902	KENDRICK, MURDOCH.....	Philadelphia,	
1895	KENNEDY, JOHN M.....	Pittsburgh.	
1895	KENNY, CHARLES B.....	"	
1902	KENWORTHY, JOSEPH W....	Philadelphia.	
1909	KEPPELMAN, JOHN ARTHUR.	Reading,	Berks Co.
1902	KIERNAN, EDMUND E.....	Somerset,	Somerset Co.
1909	KING, JAMES W.....	Philadelphia.	
1900	KINNEAR, JAMES W.....	Pittsburgh.	
1909	KIRKPATRICK, SAMUEL H...	Philadelphia.	
1910	KIRKPATRICK, WILLIAM H..	Easton,	Northampton Co.
1895	KIRKPATRICK, WILLIAM S..	"	"
1902	KISER, HARVEY S.....	Doylestown,	Bucks Co.
1902	KLINEDINST, DAVID P.....	York,	York Co.
1904	KLINGES, J. PETER.....	Philadelphia.	
1896	KNAPP, HENRY A.....	Scranton,	Lackawanna Co.
1902	KNAUS, FREDERICK J.....	Philadelphia.	
1899	KNIGHT, HARRY S.....	Sunbury,	Northumberland Co.
1895	KNOX, P. C.....	Washington, D. C.-	Pittsburgh.
1904	KOCHERSPERGER, CLAYTON H.	Philadelphia.	
1909	KOCK, EARLE I.....	Reading,	Berks Co.
1895	KOHLER, OTTO.....	Meadville,	Crawford Co.
1902	KOHN, HARRY E.....	Philadelphia.	
1897	KOONTZ, W. H.....	Somerset,	Somerset Co.
1898	KOTZ, HENRY J.....	Stroudsburg,	Monroe Co.
1895	KRESS, WILSON C.....	Lock Haven,	Clinton Co.
1904	KREWSON, GEORGE C.....	Philadelphia.	
1895	KULP, GEORGE B.....	Wilkes-Barre,	Luzerne Co.
1903	KUNKEL, PAUL A.....	Harrisburg,	Dauphin Co.
1910	LADNER, ALBERT H., JR....	Philadelphia.	
1910	LADNER, GROVER C. ....	"	
1895	LAIRD, FRANK H.....	Beaver,	Beaver Co.
1895	LAMB, THEODORE A.....	Erie,	Erie Co.
1895	LAMBERTON, JAMES M....	Harrisburg,	Dauphin Co.
1910	LAMORELLE, JOSEPH F.....	Philadelphia.	
1895	LANDIS, CHARLES I.....	Lancaster,	Lancaster Co.
1895	LANDRETH, LUCIUS S.....	Philadelphia.	
1900	LANG, CHARLES P.....	Pittsburgh.	
1906	LANGHAM, J. N.....	Indiana,	Indiana Co.
1903	LANK, EDGAR W.....	Philadelphia.	
1910	LARRABEE, DON M. ....	Williamsport,	Lycoming Co.
1908	LARZELERE, JEREMIAH B...	Norristown,	Montgomery Co.
1898	LARZELERE, N. H.....	"	"



Year of Admission		
1902	LAVIS, DAVID.....	Philadelphia.
1902	LAWS, JAMES W.....	"
1898	LAZEAR, JESSE T.....	Pittsburgh.
1897	LAZEAR, THOMAS C.....	"
1895	LEAMING, THOMAS.....	Philadelphia.
1895	LEISER, ANDREW ALBRIGHT.	Lewisburg, Union Co.
1895	LENAHAN, JOHN T.....	Wilkes-Barre, Luzerne Co.
1895	LEONARD, FREDERICK M....	Philadelphia.
1898	LESER, OSCAR.....	Baltimore, Md.
1895	LEVI, JULIUS C.....	Philadelphia.
1902	LEVIN, J. SIEGMUND.....	"
1895	LEWIS, FRANCIS D.....	"
1906	LEWIS, GEORGE C.....	Pittsburgh.
1895	LEWIS, WILLIAM DRAPER...	Philadelphia.
1902	LEX, CHARLES E.....	"
1902	LIGHT, WARREN G.....	Lebanon, Lebanon Co.
1901	LINDSEY, EDWARD.....	Warren, Warren Co.
1895	LINDSEY, R. H.....	Richmond, Va.
1907	LINN, ANDREW M.....	Washington, Washington Co.
1897	LINN, PHILIP B.....	Lewisburg, Union Co.
1902	LINN, WILLIAM B.....	Philadelphia.
1901	LITTLE, ALVIN L.....	Bedford, Bedford Co.
1896	LITTLE, P. J.....	Ebensburg, Cambria Co.
1909	LIVINGOOD, FRANK S.....	Reading, Berks Co.
1902	LLOYD, MALCOLM, JR.....	Philadelphia.
1895	LLOYD, WILLIAM PENN.....	Mechanicsburg, Cumberland Co.
1901	LOGUE, J. WASHINGTON....	Philadelphia.
1902	LOOSE, JACOB C.....	Mauch Chunk, Carbon Co.
1895	LOWREY, DWIGHT M. ....	Philadelphia.
1904	LOYD, WILLIAM H., JR....	"
1910	LUDLOW, BENJAMIN H. ...	"
1895	LUKENS, WILLIAM H. R...	"
1899	LYLE, FRANKLIN L.....	"
1895	LYON, WALTER.....	Pittsburgh.
1902	MACCAIN, CHRISTIAN S....	Philadelphia.
1902	MACDADE, A. D.....	Chester, Delaware Co.
1909	MACELDOWNNEY, W. A.....	Philadelphia.
1904	MACFARLAND, LEO.....	"
1895	MACFARLANE, JAMES R....	Pittsburgh.
1901	MACLEAN, WILLIAM, JR...	Philadelphia.
1896	MACRUM, WILLIAM.....	Pittsburgh.
1902	MAFFETT, FRANCIS J.....	Clarion, Clarion Co.
1896	MAFFETT, JAMES T.....	"
1895	MAGILL, EDWARD W.....	Philadelphia.

Year of  
Admission

1910	MAGUIRE, FRANCIS L. ....	Philadelphia.	
1904	MANDEL, DAVID, JR. ....	"	
1902	MARRON, JOHN. ....	Pittsburgh.	
1906	MARSH, H. F. ....	Wellsboro,	Tioga Co.
1906	MARSH, JOHN CRETH. ....	Philadelphia.	
1910	MARTIN, J. FREDERICK ....	"	
1895	MARTIN, J. NORMAN. ....	New Castle,	Lawrence Co.
1895	MARTIN, J. WILLIS. ....	Philadelphia.	
1904	MASON, WILLIAM CLARK. ....	"	
1900	MATTERN, EDWIN L. ....	Pittsburgh.	
1896	MAUGER, DAVID F. ....	Reading,	Berks Co.
1896	MAXWELL, HENRY D. ....	Easton,	Northampton Co.
1895	MAXWELL, ROBERT D. ....	Philadelphia.	
1895	MAXWELL, WILLIAM. ....	Towanda,	Bradford Co.
1899	MAYER, CLINTON O. ....	Philadelphia.	
1910	McADAMS, FRANCIS M. ....	"	
1910	McAVOY, CHARLES D. ....	Norristown,	Montgomery Co.
1898	McCALL, JAMES ST. CLAIR. ....	York,	York Co.
1902	McCALL, WILLIAM E., JR. ....	Philadelphia.	
1895	McCARRELL, SAMUEL J. M. ....	Harrisburg,	Dauphin Co.
1904	McCARTHY, HENRY A. ....	Philadelphia.	
1895	M'CAULEY, C. H. ....	Ridgway.	Elk Co.
1895	McCLAY, SAMUEL. ....	Pittsburgh.	
1896	McCleave, Johns. ....	"	
1896	McCLINTOCK, ANDREW H. ....	Wilkes-Barre,	Luzerne Co.
1895	McCLUNG, S. A. ....	Pittsburgh.	
1895	McCLUNG, WILLIAM H. ....	"	
1895	McCLURE, HAROLD M. ....	Lewisburg,	Union Co.
1896	McCOLLIN, EDWARD G. ....	Philadelphia.	
1903	McCONNEL, WILLIAM A. ....	Beaver,	Beaver Co.
1897	McCONNELL, A. D. ....	Greensburg,	Westmoreland Co.
1895	McCORMICK, HENRY B. ....	Harrisburg,	Dauphin Co.
1895	McCORMICK, SETH T. ....	Williamsport,	Lycoming Co.
1909	McCORMICK, SETH T., JR. ....	"	"
1895	McCOUCH, H. GORDON. ....	Philadelphia.	
1903	McCoy, Joseph D. ....	"	
1908	McCREERY, J. R. ....	Pittsburgh.	
1895	McCULLEN, JOSEPH P. ....	Philadelphia.	
1906	McDONALD, GEORGE M. ....	Reynoldsville,	Jefferson Co.
1903	McELROY, ROBERT T. ....	Pittsburgh.	
1902	McENERY, M. J. ....	Philadelphia.	
1895	McGIRR, FRANK C. ....	Pittsburgh.	
1904	McGLATHERY, THOMAS D. ....	Philadelphia.	
1901	McILHENNY, FRANCIS S. ....	"	

Year of Admission		
1895	McILVAINE, JOHN A.....	Washington, Washington Co.
1904	McINNES, WALTER S.....	Philadelphia.
1897	McKEE, CHARLES H.....	Pittsburgh.
1903	McKEEHAN, CHARLES L....	Philadelphia.
1906	McKEEHAN, JOSEPH P.....	Carlisle, Cumberland Co.
1897	McKELVY, J. E.....	Pittsburgh.
1895	McKENNA, CHARLES F.....	"
1895	McKENNAN, JOHN D.....	"
1895	McKILLIP, H. A.....	Bloomsburg, Columbia Co.
1905	McMEEN, ROBERT.....	Mifflintown, Juniata Co.
1902	McMICHAEL, CHARLES B...	Philadelphia.
1908	McMULLAN, JAMES.....	"
1902	McNEAL, J. H.....	"
1895	McPHERSON, JOHN B.....	"
1897	McSHERRY, WILLIAM, JR..	Gettysburg, Adams Co.
1902	MEAD, GLENN C.....	Philadelphia.
1902	MEAGHER, THOMAS J.....	"
1909	MECK, J. F.....	Altoona, Blair Co.
1902	MEHARD, S. S.....	Pittsburgh.
1895	MEIGS, WILLIAM M.....	Philadelphia.
1895	MELLORS, JOSEPH.....	"
1895	MERCUR, RODNEY A.....	Towanda, Bradford Co.
1895	MEREDITH, WILLIAM M....	Philadelphia.
1907	MERRICK, GEORGE W.....	Wellsboro, Tioga Co.
1895	MERRILL, JOHN HOUSTON..	Philadelphia.
1895	MERVINE, NICHOLAS P....	Altoona, Blair Co.
1896	MESTREZAT, S. LESLIE....	Uniontown, Fayette Co.
1895	MEYERS, WILLIAM K.....	Harrisburg, Dauphin Co.
1902	MICHENER, E. O.....	Philadelphia.
1904	MIDDLETON, ALLEN C.....	"
1901	MIDDLETON, WILLIAM H...	Harrisburg, Dauphin Co.
1910	MILLER, ALFRED S. ....	Philadelphia.
1895	MILLER, E. SPENCER.....	"
1907	MILLER, FREDERICK W.....	Pittsburgh.
1906	MILLER, JOHN FABER.....	Norristown, Montgomery Co.
1896	MILLER, J. J.....	Pittsburgh.
1910	MILLIGAN, OSWALD M. ....	Philadelphia.
1895	MINER, SIDNEY R.....	Wilkes-Barre, Luzerne Co.
1895	MINOR, WILLIAM E.....	Pittsburgh.
1904	MIRKIL, I. HAZELTON.....	Philadelphia.
1895	MITCHELL, EHRMAN B....	Harrisburg, Dauphin Co.
1898	MITCHELL, H. WALTON....	Pittsburgh.
1900	MITCHELL, JAMES T.....	Philadelphia..
1904	MITCHESON, JOS. MACG....	"

Year of  
Admission

1903	MOISE, ALBERT L.....	Philadelphia.	
1900	MONRO, WILLIAM L.....	Pittsburgh.	
1902	MONTGOMERY, W. M.....	Philadelphia.	
1904	MONTGOMERY, W. W., JR...	"	
1895	MOORE, ALFRED.....	"	
1902	MOORE, H. W.....	"	
1895	MOORE, WINFIELD S.....	Beaver,	Beaver Co.
1906	MOORHEAD, FOREST G.....	"	"
1895	MOORHEAD, JAMES S.....	Greensburg,	Westmoreland Co.
1897	MORGAN, CHARLES E., JR..	Philadelphia.	
1905	MORRIS, ROLAND S.....	"	
1895	MORRIS, WILLIAM.....	"	
1902	MORRIS, W. NORMAN.....	"	
1902	MORRIS, WILLIAM S.....	"	
1895	MOYER, JOSEPH W.....	Pottsville,	Schuylkill Co.
1895	MULHEARN, EDWARD M....	Mauch Chunk,	Carbon Co.
1910	MULLIN, J. E. ....	Kane,	McKean Co.
1895	MUNSON, C. LA RUE.....	Williamsport,	Lycoming Co.
1908	MUNSON, GEORGE S.....	Philadelphia.	
1898	MURPHY, JOHN A.....	Pittsburgh.	
1902	MURPHY, J. JOSEPH.....	Philadelphia.	
1895	MURPHY, ROBERT S.....	Johnstown,	Cambria Co.
1909	MURPHY, THOS. E.....	Philadelphia.	
1903	MURRAY, JAMES V.....	Brookville,	Jefferson Co.
1895	MYERS, H. H.....	Ebensburg,	Cambria Co.
1902	MYERS, HARRY RUSSELL....	Washington,	Washington Co.
1902	NAUMAN, JOHN A.....	Lancaster,	Lancaster Co.
1906	NEELY, J. HOWARD.....	Mifflintown,	Juniata Co.
1896	NEEPER, A. M.....	Pittsburgh.	
1905	NEFF, GEORGE E.....	York,	York Co.
1896	NEILSON, WILLIAM D.....	Philadelphia.	
1897	NEVIN, D. W.....	Easton,	Northampton Co.
1902	NEWBOURG, FREDERICK C., JR.	Philadelphia.	
1895	NICHOLS, H. S. PRENTISS..	"	
1909	NICOLLS, FREDERICK W.....	Reading,	Berks Co.
1895	NILES, HENRY C.....	York,	York Co.
1895	NISSLEY, JOHN C.....	Harrisburg,	Dauphin Co.
1899	NORRIS, G. HEIDE.....	Philadelphia.	
1908	NORRIS, WILLIAM F.....	"	
1909	NORTH, HUGH M.....	Lancaster,	Lancaster Co.
1910	O'BRIEN, CHARLES A.....	Pittsburgh.	
1895	O'CONNOR, FRANCIS J.....	Johnstown,	Cambria Co.
1905	O'CONNOR, JAMES B.....	"	"
1895	OLMSTED, MARLIN E.....	Harrisburg,	Dauphin Co.

Year of Admission		
1907	OMWAKE, J. S.....	Shippensburg, Cumberland Co.
1895	OMWAKE, W. T.....	Waynesboro, Franklin Co.
1895	ORAM, W. H. M.....	Shamokin, Northumberland Co.
1895	ORLADY, GEORGE B.....	Huntingdon, Huntingdon Co.
1907	ORLEMANN, HENRY P.....	Philadelphia.
1895	ORR, CHARLES P.....	Pittsburgh.
1895	ORVIS, ELLIS L.....	Bellefonte, Centre Co.
1895	OSBURN, FRANCIS C.....	Pittsburgh.
1895	OSMER, J. H.....	Franklin, Venango Co.
1895	OTT, FREDERICK M.....	Harrisburg, Dauphin Co.
1902	PACKER, GIBSON D.....	Pittsburgh.
1895	PAGE, HOWARD W.....	Philadelphia.
1895	PAGE, S. DAVIS.....	"
1898	PAINTER, JOHN H.....	Kittanning, Armstrong Co.
1898	PALMER, A. MITCHELL....	Stroudsburg, Monroe Co.
1895	PALMER, H. W.....	Wilkes-Barre, Luzerne Co.
1910	PARKINSON, THOMAS I. ...	Philadelphia.
1896	PATTERSON, G. STUART....	"
1895	PATTERSON, JOHN E.....	Harrisburg, Dauphin Co.
1906	PATTERSON, JOHN M.....	Philadelphia.
1895	PATTERSON, ROSWELL H....	Scranton, Lackawanna Co.
1895	PATTERSON, T. ELLIOTT....	Philadelphia.
1895	PATTERSON, THOMAS.....	Pittsburgh.
1896	PAUL, J. RODMAN.....	Philadelphia.
1896	PEALE, S. R.....	Lock Haven, Clinton Co.
1895	PENNELL, F. M. M.....	Mifflintown, Juniata Co.
1898	PENNEWILL, WALTON.....	Philadelphia.
1896	PENNYPACKER, SAMUEL W.	P'nypacker's Mills, Montgomery Co.
1895	PENROSE, BOIES.....	Philadelphia.
1904	PEPPER, B. FRANKLIN.....	"
1895	PEPPER, GEORGE WHARTON..	"
1895	PERKINS, EDWARD L.....	"
1901	PETTIT, HORACE.....	"
1900	PETTY, ROBERT B.....	Pittsburgh.
1895	PHILLIPS, ALFRED I.....	Philadelphia.
1895	PIATT, JAMES W. ....	Tunkhannock, Wyoming Co.
1902	PILE, CHARLES H.....	Philadelphia.
1903	PLAYFORD, ROBERT W.....	Uniontown, Fayette Co.
1907	PLACE, ALBERT R.....	Lansdale, Montgomery Co.
1895	PLUMER, L. M.....	Pittsburgh.
1895	PORTER, WILLIAM D.....	"
1898	PORTER, WM. WAGENER....	Philadelphia.
1895	POTTER, SHELDON.....	"
1910	POWELL, HUMBERT B. ....	"
1907	PRESTLEY, JOHN L.....	Pittsburgh.

Year of  
Admission

1895	PRICE, SAMUEL B.....	Scranton,	Lackawanna Co.
1895	PRICHARD, FRANK P.....	Philadelphia.	
1895	PUGH, JAMES L.....	Somerset,	Somerset Co.
1902	PUSEY, FREDERICK T.....	Philadelphia.	
1899	RAEDER, WILLIAM L.....	Wilkes-Barre,	Luzerne Co.
1902	RALSTON, ROBERT.....	Philadelphia.	
1910	RAMBO, ORMOND .....	"	
1895	RAMSEY, SAMUEL D.....	West Chester,	Chester Co.
1895	RAWLE, FRANCIS .....	Philadelphia.	
1902	RAYMOND, EUGENE.....	"	
1895	READ, JOHN R .....	"	
1895	READING, JOHN G.....	Williamsport,	Lycoming Co.
1902	REATH, THEODORE W.....	Philadelphia.	
1902	REATH, THOMAS .....	"	
1902	REBER, J. HOWARD .....	"	
1895	REED, JAMES H.....	Pittsburgh.	
1896	REED, JOHN W.....	Brookville,	Jefferson Co.
1895	REED, JOSEPH A.....	Philadelphia.	
1902	REEVES, FREDERICK R.....	"	
1896	REID, ALFRED P.....	West Chester,	Chester Co.
1910	REID, ARTHUR P. ....	"	
1909	REILEY, DONALD CRESS.....	Bedford,	Bedford Co.
1908	REILLY, PAUL .....	Philadelphia.	
1904	REILLY, RICHARD M.....	Lancaster,	Lancaster Co.
1906	REINEMAN, ROBERT T.....	Pittsburgh.	
1903	REMAK, GUSTAVUS, JR.....	Philadelphia.	
1895	REPPERT, E. H.....	Uniontown,	Fayette Co.
1895	REX, WALTER E.....	Philadelphia.	
1905	REYNOLDS, JOHN M.....	Bedford,	Bedford Co.
1910	RHEY, JOHN M. ....	Carlisle,	Cumberland Co.
1895	RHOADS, JOSEPH R.,.....	Philadelphia.	
1896	RICE, CHARLES E.....	Wilkes-Barre,	Luzerne Co.
1897	RICE, WILLIAM E.....	Warren,	Warren Co.
1895	RICHARDS, LOUIS.....	Reading,	Berks Co.
1904	RIDGWAY, THOMAS .....	Philadelphia.	
1902	RILLING, JOHN S.....	Erie,	Erie Co.
1908	ROADS, GEORGE M.....	Pottsville,	Schuylkill Co.
1895	ROBBINS, EDWARD E.....	Greensburg,	Westmoreland Co.
1908	ROBERTS, C. WILSON.....	Philadelphia.	
1896	ROBERTS, GEORGE L.....	Pittsburgh.	
1901	ROBERTS, OWEN J.....	Philadelphia.	
1902	ROBINSON, D. STEWART....	"	
1910	ROBINSON, J. ROHRMAN ...	Media,	Delaware Co.
1895	ROBINSON, V. GILPIN.....	Philadelphia.	

Year of  
Admission

1896	RODGERS, W. B.....	Philadelphia.	
1902	RODMAN, WALTER C.....	"	
1909	ROGERS, JAMES S.....	"	
1908	ROSE, DON.....	Sewickley,	Allegheny Co.
1895	ROSE, WILLIAM HORACE....	Johnstown,	Cambria Co.
1906	ROSENBERGER, EMIL.....	Philadelphia.	
1895	ROSENZWEIG, L.....	Erie,	Erie Co.
1908	ROSS, GEORGE .....	Doylestown,	Bucks Co.
1896	ROSS, N. SARGENT.....	York,	York Co.
1902	ROSS, THOMAS .....	Doylestown,	Bucks Co.
1908	ROTAN, SAMUEL P.....	Philadelphia.	
1895	ROTHERMEL, P. F., JR.....	"	
1906	ROURKE, WILLIAM J.....	Reading,	Berks Co.
1902	ROUSE, JOHN L.....	York,	York Co.
1895	ROWE, D. WATSON.....	Chambersburg,	Franklin Co.
1904	RUHL, CHRISTIAN H.....	Reading,	Berks Co.
1895	RUMSEY, HORACE M.....	Philadelphia.	
1910	RUNK, LOUIS BARCROFT ...	"	
1897	RUPLEY, ARTHUR R.....	Carlisle,	Cumberland Co.
1895	RUPPEL, W. H.....	Somerset,	Somerset Co.
1902	RYAN, MICHAEL J.....	Philadelphia,	
1903	RYAN, WILLIAM C.....	Doylestown,	Bucks Co.
1896	RYON, WILLIAM W.....	Shamokin,	Northumberland Co.
1903	SANDO, M. F.....	Scranton,	Lackawanna Co.
1902	SANSON, ALBERT W.....	Philadelphia.	
1906	SAUL, WALTER BIDDLE .....	"	
1900	SAVIDGE, FRANK R.....	"	
1895	SAVIDGE, JOSEPH.....	"	
1895	SAYERS, JAMES E.....	Waynesburg,	Greene Co.
1910	SAYRE, CHARLES H.....	Philadelphia.	
1895	SCANDRETT, RICHARD B.....	Pittsburgh.	
1899	SCARBOROUGH, HENRY W...	Philadelphia.	
1895	SCHAFER, JOHN D.....	Pittsburgh.	
1898	SCHAEFFER, WILLIAM I.....	Chester,	Delaware Co.
1895	SCHAEFFER, D. NICHOLAS...	Reading,	Berks Co.
1909	SCHAEFFER, E. CARROLL.....	"	"
1909	SCHAEFFER, HARRY D.....	"	"
1902	SCHALCK, A. W.....	Pottsville,	Schuylkill Co.
1909	SCHHEELINE, ISAIAH.....	Altoona,	Blair Co.
1905	SCHMIDT, GEORGE S.....	York,	York Co.
1898	SCHOFIELD, CHARLES S.....	Philadelphia.	
1903	SCHOFIELD, JOSEPH A.....	Warren,	Warren Co.
1900	SCHOONMAKER, FRED. P....	Bradford,	McKean Co.
1908	SCHWARTZ, SYDNEY A.....	Titusville,	Crawford Co.

Year of  
Admission

1895	SCOTT, HENRY J.....	Philadelphia.	
1895	SCOTT, JOHN, JR.....	"	
1895	SCOTT, JOHN M.....	"	
1896	SCULL, EDWARD B.....	Pittsburgh.	
1895	SEARLE, ALONZO T.....	Honesdale,	Wayne Co.
1904	SEIBERLICH, EDWARD B....	Philadelphia.	
1895	SEIBERT, WILLIAM N.....	New Bloomfield,	Perry Co.
1900	SEITZ, DANIEL S.....	Harrisburg,	Dauphin Co.
1909	SELL, SIMON H.....	Bedford,	Bedford Co.
1908	SEYMOUR, WARREN I.....	Pittsburgh.	
1900	SHAFFER, NOAH W.....	"	
1902	SHAPLEY, E. COOPER.....	Philadelphia.	
1896	SHARKEY, FRANK P.....	Mauch Chunk,	Carbon Co.
1895	SHARPE, WALTER K.....	Chambersburg,	Franklin Co.
1901	SHATTUCK, FRANK R.....	Philadelphia.	
1896	SHAW, GEORGE E.....	Pittsburgh.	
1895	SHERMAN, CHARLES P....	Philadelphia.	
1906	SHICK, ROBERT P.....	"	
1895	SHIELDS, A. S. L.....	"	
1895	SHIELDS, JAMES M.....	Pittsburgh.	
1896	SHIRAS, W. K.....	"	
1895	SHIRK, HOWARD C.....	Lebanon,	Lebanon Co.
1908	SHOEMAKER, HARRY J.....	Doylestown,	Bucks Co.
1895	SHOEMAKER, HOMER.....	Harrisburg,	Dauphin Co.
1899	SHOEMAKER, WILLIAM H....	Philadelphia.	
1909	SHOMO, WILLIAM ALFRED...	Reading,	Berks Co.
1895	SHOFF, JOHN H.....	Harrisburg,	Dauphin Co.
1895	SHOYER, FREDERICK J.....	Philadelphia.	
1907	SHREVE, MILTON W.....	Erie,	Erie Co.
1904	SHULL, S. E.....	Stroudsburg,	Monroe Co.
1895	SIMPSON, ALEX., JR.....	Philadelphia.	
1902	SINN, JOSEPH A.....	Scranton,	Lackawanna Co.
1904	SINNICKSON, CHARLES ....	Philadelphia.	
1902	SISSON, A. E.....	Erie,	Erie Co.
1902	SLATTERY, JOSEPH A.....	Philadelphia.	
1895	SMALL, CHRISTIAN A.....	Bloomsburg,	Columbia Co.
1895	SMEAD, A. D. BACHE.....	Carlisle,	Cumberland Co.
1895	SMILEY, CHARLES H.....	New Bloomfield,	Perry Co.
1899	SMITH, A. B., JR.....	Montrose,	Susquehanna Co.
1895	SMITH, ALFRED PERCIVAL...	Philadelphia.	
1895	SMITH, ALLISON O.....	Clearfield,	Clearfield Co.
1895	SMITH, EDWIN W.....	Pittsburgh.	
1895	SMITH, EDWIN Z.....	"	
1901	SMITH, EUGENE G.....	Lancaster,	Lancaster Co.



Year of  
Admission

1895	SMITH, LEWIS LAWRENCE..	Philadelphia.	
1902	SMITH, R. STUART.....	"	
1904	SMITH, THOMAS KILBY....	"	
1895	SMITH, WALTER GEORGE....	"	
1895	SMITH, WILLIAM RUDOLPH..	"	
1899	SMITHERS, WILLIAM W....	"	
1902	SMYTH, DAVID J.....	"	
1905	SMYTH, WILLIAM J.....	"	
1908	SNODGRASS, FRANK P.....	Harrisburg,	Dauphin Co.
1895	SNODGRASS, ROBERT.....	"	"
1895	SNYDER, EUGENE.....	"	"
1903	SNYDER, JOHN E.....	Lancaster,	Lancaster Co.
1897	SNYDER, J. FRANK.....	New York City.	
1909	SNYDER, THOS. LAEGER.....	Reading,	Berks Co.
1910	SOBERNHEIMER, FRED. A....	Philadelphia.	
1910	SOBERNHEIMER, FRED. A., JR.	"	
1898	SOLLY, WILLIAM F.....	Norristown,	Montgomery Co.
1910	SPALDING, HENRY .....	Philadelphia.	
1895	SPARHAWK, JOHN, JR.....	"	
1910	SPEER, PETER M. ....	Oil City.	Venango Co.
1895	SPROUT, CLARENCE E.....	Williamsport,	Lycoming Co.
1895	STAAKE, WILLIAM H.....	Philadelphia.	
1904	STAAKE, WILLIAM W.....	"	
1895	STADTFELD, JOSEPH.....	Pittsburgh.	
1895	STAMM, A. CARSON.....	Harrisburg,	Dauphin Co.
1895	STAPLES, CHARLES B.....	Stroudsburg,	Monroe Co.
1908	STAUFFER, RANDOLPH .....	Reading,	Berks Co.
1895	STEELE, H. J.....	Easton,	Northampton Co.
1895	STENGER, WILLIAM S.....	Philadelphia.	
1895	STEPHENS, MARLIN B.....	Johnstown,	Cambria Co.
1895	STERRETT, JAMES R.....	Pittsburgh.	
1909	STEVENS, J. B.....	Reading,	Berks Co.
1900	STEVENS, WILLIAM KERPER..	"	"
1909	STEWART, DANIEL A.....	Philadelphia.	
1896	STEWART, JOHN.....	Chambersburg,	Franklin Co.
1895	STEWART, RUSSELL C.....	Easton,	Northampton Co.
1895	STEWART, W. F. BAY.....	York,	York Co.
1902	STEWART, WILLIAM M., JR.	Philadelphia.	
1895	STILLWELL, JAMES C.....	"	
1910	STOCKWELL, HERBERT G....	"	
1895	STOEVEY, WILLIAM C.....	"	
1900	STONE, CHARLES W.....	Warren,	Warren Co.
1910	STOTZ, ROBERT A.....	Easton,	Northampton Co.
1902	STOUT, MAHLON H.....	Doylestown,	Bucks Co.

Year of  
Admission

1899	STRAUSS, S. J.....	Wilkes-Barre,	Luzerne Co.
1895	STRAWBRIDGE, JOSEPH R....	York,	York Co.
1901	STRITE, J. A.....	Chambersburg,	Franklin Co.
1904	STROH, CHARLES C.....	Harrisburg,	Dauphin Co.
1910	STRONG, JOHN M. ....	Philadelphia.	
1908	STUART, ROBERT L.....	Allentown,	Lehigh Co.
1907	STURGEON, DANIEL.....	Uniontown,	Fayette Co.
1896	STUTZBACH, MARTIN H....	Philadelphia.	
1909	SULLIVAN, J. AUSTIN.....	Altoona,	Blair Co.
1909	SULLIVAN, JOHN F.....	"	"
1910	SUTTON, ISAAC C. ....	Philadelphia.	
1908	SUTTON, ROBERT WOOD....	Pittsburgh.	
1896	SUTTON, W. HENRY.....	Philadelphia.	
1904	SWARTLEY, FRANCIS K....	"	
1905	SWARTLEY, JOHN C.....	Doylestown,	Bucks Co.
1899	SWARTZ, AARON S.....	Norristown,	Montgomery Co.
1896	SWEARINGEN, J. M.....	Pittsburgh.	
1903	SWOOP, ROLAND D.....	Curwensville,	Clearfield Co.
1897	SWOPE, S. MCC.....	Gettysburg,	Adams Co.
1902	TAIT, EDWIN E.....	Bradford,	McKean Co.
1910	TALBOT, WALTER S. ....	West Chester,	Chester Co.
1900	TAULANE, JOSEPH H.....	Philadelphia.	
1895	TAYLOR, CARTER BERKELEY..	"	
1895	TAYLOR, JAMES F.....	Washington,	Washington Co.
1902	TAYLOR, JOSEPH T.....	Philadelphia.	
1902	TAYLOR, SAMUEL J.....	"	
1906	TELFORD, S. J.....	Indiana,	Indiana Co.
1902	TEMPLETON, ALEXANDER M.	Washington,	Washington Co.
1900	TEMPLETON, E. S.....	Greenville,	Mercer Co.
1895	TERRY, CHARLES E.....	Tunkhannock,	Wyoming Co.
1895	TERRY, HENRY C.....	Philadelphia.	
1902	THOLE, FRANCIS H.....	"	
1896	THOMAS, SAMUEL HINDS..	"	
1904	THOMPSON, A. M.....	Pittsburgh.	
1900	THOMPSON, HENRY C., JR..	Philadelphia.	
1898	THOMPSON, J. WHITAKER..	"	
1900	THOMPSON, S. HARVEY....	Pittsburgh.	
1896	THORPE, CHARLES M.....	"	
1896	TODD, HENRY C.....	"	
1895	TODD, M. HAMPTON.....	Philadelphia.	
1896	TORREY, JAMES H.....	Scranton,	Lackawanna Co.
1897	TOWNSEND, J. B., JR.....	Philadelphia.	
1900	TRACEY, HENRY M.....	"	
1899	TREXLER, FRANK M.....	Allentown,	Lehigh Co.

Year of Admission		
1895	TRICKETT, WILLIAM.....	Carlisle, Cumberland Co.
1907	TRIMBLE, THOMAS P.....	Allegheny City, Allegheny Co.
1902	TURNER, WILLIAM J.....	Philadelphia.
1900	TUSTIN, ERNEST L.....	"
1895	UHL, JOHN H.....	Somerset, Somerset Co.
1907	ULRICH, ALEX. N.....	Catasauqua, Lehigh Co.
1895	UMBEL, ROBERT E.....	Uniontown, Fayette Co.
1907	VAILL, EDWARD B.....	Pittsburgh.
1906	VALE, RUBY R.....	Philadelphia.
1902	VANDERSLOOT, JOHN E.....	York, York Co.
1895	VAN DUSEN, GEORGE R.....	Philadelphia.
1896	VAN HORN, CHARLES F....	"
1899	VON MOSCHZISKER, ROBERT.	"
1904	WAGNER, GEORGE M.....	"
1909	WAGNER, GEORGE W.....	Reading, Berks Co.
1907	WALKER, W. HARRISON....	Bellefonte, Centre Co.
1908	WALKER, WINFIELD S.....	Philadelphia.
1902	WALLACE, W. S.....	"
1897	WALLACE, WILLIAM D.....	New Castle, Lawrence Co.
1901	WALLER, LEVI E.....	Wilkes-Barre, Luzerne Co.
1900	WALLING, EMORY A.....	Erie, Erie Co.
1902	WALSH, ALPHONSUS.....	Dushore, Sullivan Co.
1895	WALTER, CHARLES.....	Chambersburg, Franklin Co.
1895	WALTON, DANIEL S.....	Waynesburg, Greene Co.
1900	WANGER, IRVING P.....	Norristown, Montgomery Co.
1895	WARREN, EVERETT.....	Scranton, Lackawanna Co.
1905	WASSON, HENRY GRANT....	Pittsburgh.
1902	WATERS, ASA W.....	Cambridge, Mass. Philadelphia.
1895	WATRES, LOUIS ARTHUR....	Scranton, Lackawanna Co.
1895	WATSON, D. T.....	Pittsburgh.
1898	WATSON, HENRY W.....	Williamsport, Lycoming Co.
1902	WATSON, JAMES C.....	"
1900	WATTERSON, A. V. D.....	Pittsburgh.
1896	WAY, WILLIAM A.....	"
1898	WEAND, HENRY K.....	Norristown, Montgomery Co.
1896	WEAVER, JOHN.....	Philadelphia.
1895	WEIDMAN, GRANT.....	Lebanon, Lebanon Co.
1904	WEIL, ARTHUR E.....	Philadelphia.
1895	WEIL, A. LEO.....	Pittsburgh.
1895	WEIMER, ALBERT B.....	Philadelphia.
1900	WEISS, JOHN FOX.....	Harrisburg, Dauphin Co.
1910	WELLER, JOHN S.....	Pittsburgh.
1895	WELLES, CHARLES H.....	Scranton, Lackawanna Co.

Year of  
Admission

1895	WETHERILL, CHARLES.....	Philadelphia.	
1901	WETHERILL, JOHN LAW- RENCE.....	"	
1895	WETZEL, JOHN W.....	Carlisle,	Cumberland Co.
1903	WEYAND, EDWIN S.....	Beaver,	Beaver Co.
1895	WHITE, ELIAS H.....	Philadelphia.	
1895	WHITE, HARRY.....	Indiana,	Indiana Co.
1902	WHITE, JOHN J.....	Philadelphia.	
1902	WHITE, THOMAS EARLE....	"	
1903	WHITE, THOMAS RAEBURN.	"	
1895	WHITE, WILLIAM, JR.....	"	
1897	WHITEHEAD, HARVEY W...	Williamsport,	Lycoming Co.
1895	WHITTESEY, E. L.....	Erie,	Erie Co.
1895	WICKERSHAM, FRANK B...	Harrisburg,	Dauphin Co.
1895	WILCOX, WILLIAM A.....	Scranton,	Lackawanna Co.
1896	WILER, ALFRED DAY.....	Philadelphia.	
1900	WILEY, J. A.....	Washington,	Washington Co.
1907	WILLARD, WALTER.....	Philadelphia.	
1899	WILLIAMS, A. L.....	Wilkes-Barre,	Luzerne Co.
1895	WILLIAMS, ALFRED W.....	Sharon,	Mercer Co.
1897	WILLIAMS, ANDREW G.....	Butler,	Butler Co.
1899	WILLIAMS, IRA JEWELL....	Philadelphia.	
1895	WILLIAMS, J. HENRY.....	"	
1904	WILLIAMS, PARKER S.....	"	
1896	WILLIAMS, SMYSER.....	York,	York Co.
1904	WILLIAMS, THOMAS S.....	Philadelphia.	
1902	WILSON, HARRY R.....	Clarion,	Clarion Co.
1895	WILSON, HENRY.....	Honesdale,	Wayne Co.
1897	WILSON, HENRY I.....	Big Run,	Jefferson Co.
1907	WILSON, JOSEPH R.....	Philadelphia.	
1901	WILSON, W. C.....	"	
1910	WILSON, WILLIAM H. ....	"	
1895	WILTBANK, WILLIAM W...	"	
1910	WINDLE, FREDERICK F. ....	"	
1895	WINTERNITZ, B. A.....	New Castle,	Lawrence Co.
1895	WINTERSTEEN, A. H.....	Philadelphia.	
1895	WISE, J. H.....	Pittsburgh.	
1905	WISHART, WILLIAM W.....	"	
1895	WISTER, WILLIAM ROTCH..	Philadelphia.	
1910	WOLFE, GEORGE E. ....	Johnstown,	Cambria Co.
1899	WOLFF, OTTO.....	Philadelphia.	
1908	WOOD, CLEMENT B.....	"	
1895	WOOD, R. FRANCIS.....	"	
1895	WOODRUFF, CLINTON ROGERS.	"	

Year of Admission		
1897	WOODS, CYRUS E.....	Greensburg, Westmoreland Co.
1895	WOODS, JOSEPH M.....	Lewistown, Mifflin Co.
1898	WOODWARD, J. B.....	Wilkes-Barre, Luzerne Co.
1899	WRIGHT, GEORGE R.....	"
1910	YEAKLE, J. MORRIS .....	Philadelphia.
1895	YERKES, HARMAN .....	Doylestown, Bucks Co.
1904	YOST, DONALD H.....	York, York Co.
1895	YOUNG, JAMES S.....	Pittsburgh.
1901	YOUNG, SYDNEY .....	Philadelphia.
1904	ZIEGLER, CHARLES F.....	"
1908	ZIEGLER, FRANK E.....	Harrisburg, Dauphin Co.
1898	ZUG, CHARLES K.....	Philadelphia.

# LIST OF MEMBERS DECEASED SINCE ORGANIZATION OF ASSOCIATION

Year of  
Admission

1895	WEIDMAN, GRANT.....	Lebanon,	Died	November, 1895.
1895	ORR, GRIER C.....	Kittanning,	"	November 17, 1895.
1895	WIREMAN, HENRY D.....	Philadelphia,	"	May 30, 1896.
1895	NEILL, SAMUEL T.....	Warren,	"	August, 1896.
1895	TITUS, HENRY C.....	Philadelphia,	"	August 10, 1896.
1895	RATHBUN, GEORGE A.....	Ridgway,	"	September 18, 1896.
1895	SCOTT, HON. JOHN.....	Philadelphia,	"	December, 1896.
1895	MARSHALL, F. F.....	Erie,	"	February, 1897.
1896	LANDIS, HON. AUG. S.....	Hollidaysburg.	"	April, 1897.
1895	BRADEN, J. M.....	Washington,	"	April 17, 1897.
1895	BIDDLE, HON. GEORGE W.....	Philadelphia,	"	April 29, 1897.
1896	WADDELL, HON. WILLIAM B...	West Chester,	"	June 3, 1897.
1895	HALL, HON. LOUIS W.....	Harrisburg,	"	July 12, 1897.
1895	MONAGHAN, R. JONES.....	West Chester,	"	October 1, 1897.
1895	AMMERMAN, HON. LEMUEL....	Scranton,	"	October 7, 1897.
1895	DAVIS, J. ALTON.....	"	"	November 19, 1897.
1895	VALENTINE, JOHN K.....	Philadelphia,	"	January 16, 1898.
1895	NOYES, HON. CHARLES H.....	Warren,	"	February 24, 1898.
1897	WICKHAM, HON. JOHN J.....	Beaver,	"	June 18, 1898.
1895	PARSONS, HENRY C.....	Williamsport,	"	November 21, 1898.
1895	CRAIG, SAMUEL S.....	Philadelphia,	"	December 10, 1898.
1897	BREWSTER, HON. F. CARROLL...	"	"	December 30, 1898.
1895	MERRILL, JESSE.....	Lock Haven,	"	January 14, 1899.
1895	NORRIS, A. WILSON.....	Harrisburg,	"	January 15, 1899.
1895	CUSTIS, ALFRED FRANK.....	Philadelphia,	"	March 30, 1899.
1895	KAUFFMAN, ANDREW J.....	Columbia,	"	May 19, 1899.
1895	GILKESON, A. WEIR.....	Bristol,	"	June 30, 1899.
1895	BURTON, ARTHUR M.....	Philadelphia,	"	July 22, 1899.
1897	ERMENTROUT, HON. DANIEL...	Reading,	"	September 17, 1899.
1895	MILLER, JACOB H.....	Philadelphia,	"	January 26, 1900.
1898	GUNSTER, HON. FREDERICK W.	Lancaster,	"	January 30, 1900.
1895	ADDICKS, WILLIAM H.....	Pittsburgh,	"	February 24, 1900.
1895	ATLEE, WILLIAM AUGUSTUS...	Lancaster,	"	February 24, 1900.
1895	VAIL, LEWIS W.....	Philadelphia,	"	March 21, 1900.
1895	METZGER, JOHN J.....	Williamsport,	"	September 27, 1900.
1895	SLAGLE, HON. JACOB F.....	Pittsburgh,	"	September, 1900.
1895	EWING, DAVID Q.....	"	"	October 1, 1900.
1895	BARKLEY, CHARLES G.....	Bloomsburg,	"	October 10, 1900.
1896	WHITE, HON. J. W. F.....	Pittsburgh,	"	November 4, 1900.
1895	LYONS, HON. JEREMIAH.....	Mifflintown,	"	November 13, 1900.

Year of Admission			
1895	ALLINSON, EDWARD P.....	Philadelphia,	Died January 16, 1901.
1895	ROCKWELL, DELOS .....	Troy,	" February 24, 1901.
1895	LAMBERTON, WILLIAM B.....	Harrisburg,	" July 5, 1901.
1896	DARTE, HON. ALFRED.....	Wilkes-Barre,	" July 21, 1901.
1895	MOORE, ARTHUR .....	Philadelphia,	" November, 1901.
1895	HUEY, SAMUEL B.....	"	" November, 1901.
1896	BINGHAM, ED. D.....	West Chester,	" December 28, 1901.
1900	LONG, J. F.....	Doylestown,	" January 3, 1902.
1895	SHOEMAKER, R. C.....	Wilkes-Barre,	" February 17, 1902.
1895	HAMILTON, GEORGE P.....	Pittsburgh.	
1895	LOWRY, BENJAMIN H.....	Philadelphia,	" April, 1902.
1895	MCCARRELL, L.....	Washington,	" April, 1902.
1895	JUNKIN, GEORGE.....	Philadelphia,	" April 10, 1902.
1895	MCCORMICK, HON. HENRY C..	Williamsport,	" May 26, 1902.
1895	YARDLEY, ROBERT M.....	Doylestown,	" December 9, 1902.
1895	SIMONTON, HON. J. W.....	Harrisburg,	" February 12, 1903.
1895	DUBOIS, JOHN L.....	Doylestown,	" February 12, 1903.
1895	GREENE, CHARLES S.....	Philadelphia,	" March 24, 1903.
1895	BOWER, CALVIN M.....	Bellefonte,	" April 26, 1903.
1895	ARNOLD, HON. M.....	Philadelphia,	" April 24, 1903.
1899	DICKSON, HAZARD.....	"	" July 13, 1903.
1895	GUILLOU, VICTOR .....	"	" August 1, 1903.
1899	ASHHURST, ROGER.....	"	" August, 1903.
1895	GILKESON, HON. B. FRANK....	Bristol,	" August 14, 1903.
1901	PLAYFORD, WILLIAM H.....	Uniontown,	" September 24, 1903.
1895	BAILEY, HON. JOHN M.....	Huntingdon,	" September 27, 1903.
1896	THOMPSON, JOHN M.....	Butler,	" September, 1903.
1902	PARMLEE, JAMES O.....	Warren,	" September 9, 1903.
1902	STEWART, WILLIAM F.....	Brookville,	" November 9, 1903.
1895	MCCONAHY, JOHN G.....	New Castle,	" November 29, 1903.
1902	ALLSHOUSE, CHARLES E.....	Monessen,	" December 3, 1903.
1895	ESHLEMAN, B. FRANK.....	Lancaster,	" December 17, 1903.
1895	NEALE, HON. JAMES B.....	Kittanning,	" December 31, 1903.
1895	MEANS, GEORGE W.....	Brookville,	" February 16, 1904.
1899	DUNCAN, JOHN F.....	Lewisburg,	" February 18, 1904.
1902	GORMAN, JOSEPH A.....	Philadelphia,	" April, 1904.
1895	DALE, RICHARD C.....	"	" May 22, 1904.
1895	GREW, WILLIAM.....	"	" June 10, 1904.
1895	DETWEILER, MEADE D.....	Harrisburg,	" June 18, 1904.
1895	HART, THOMAS, JR.....	Philadelphia,	" July 29, 1904.
1904	SMITHERS, ELIAS P.....	"	" September 16, 1904.
1904	CORSS, D. CHARLES.....	Lock Haven,	" November 29, 1904.
1895	BIERY, JAMES S.....	Allentown,	" December 5, 1904.
1895	ALLEN, HON. GEORGE A.....	Erie,	" February 26, 1905.
1899	WEAVER, P. V.....	Hazleton,	" March 28, 1905.

Year of  
Admission

1895	WHITE, RICHARD P.....	Philadelphia,	Died May 22, 1905.
1900	SMITH, FRANK W.....	Pittsburgh,	" June 14, 1905.
1899	MCCUTCHEON, J. L.....	"	" July 16, 1905.
1897	ROMMEL, J. MARTIN.....	Philadelphia,	" August 18, 1905.
1895	LANDIS, JOHN B.....	Carlisle,	" October 31, 1905.
1895	WEISS, HON. JOHN H.....	Harrisburg,	" November 22, 1905.
1895	HOBSON, F. G.....	Norristown,	" January 10, 1906.
1902	HARTMANFT, FRANK A.....	Philadelphia,	" January 18, 1906.
1895	HENDERSON, HON. ROBERT M.	Carlisle,	" January 29, 1906.
1895	SHAPLEY, RUFUS E.....	Philadelphia,	" February 11, 1906.
1905	LITTLE, HON. ROBERT R.....	Bloomsburg,	" February 26, 1906.
1895	SCOTT, WILLIAM.....	Pittsburgh,	" February 27, 1906.
1897	WOODWARD, HON. STANLEY...	Wilkes-Barre,	" March 29, 1906.
1895	WHITE, JOHN NEWTON.....	Pittsburgh,	" March 29, 1906.
1895	DAVIS, HON. G. HARRY.....	Philadelphia,	" April 18, 1906.
1901	COLVILLE, ARTHUR.....	"	" April 19, 1906.
1900	TODD, A. M.....	Washington,	" May 7, 1906.
1895	MAYER, HON. CHARLES A.....	Lock Haven,	" May 18, 1906.
1896	MILLAR, ALBERT.....	Harrisburg,	" May 22, 1906.
1895	MERCER, GEORGE G.....	Philadelphia.	" May 28, 1906.
1903	BYLES, JULIUS.....	Titusville,	" June 19, 1906.
1895	BISPHAM, GEORGE TUCKER...	Philadelphia,	" July 28, 1906.
1896	HANNA, HON. WILLIAM B....	"	" August 4, 1906.
1901	GEHR, HASTINGS.....	Chambersburg,	" August 31, 1906.
1895	MULLIN, EUGENE.....	Bradford,	" September 16, 1906.
1904	WAGNER, CHARLES M.....	Philadelphia,	" March 6, 1906.
1897	SECHLER, WILLIAM H.....	Ebensburg,	" December 30, 1906.
1902	VANDERSLICE, THADDEUS L....	Philadelphia,	" January 26, 1907.
1900	SHEEHAN, PATRICK C.....	Conneautville,	" February 24, 1907.
1902	ASHTON, J. HUBLEY.....	Wash'gton, D.C.	" March 14, 1907.
1895	FREEDLEY, ANGELO T.....	Philadelphia,	" May 19, 1907.
1895	HERRIOTT, THOMAS.....	Pittsburgh,	" May 9, 1907.
1900	SPOUL, JAMES W.....	Erie,	" June 9, 1907.
1895	CAPP, HON. THOMAS H.....	Harrisburg,	" July 3, 1907.
1897	MCCORMICK, EDWARD B.....	Greensburg,	" March 18, 1907.
1896	RIDDLE, GEORGE D.....	Pittsburgh,	" March 28, 1907.
1907	PATTERSON, ALEX. A.....	"	" December 3, 1907.
1895	NORTH, HON. HUGH M.....	Lancaster,	" December 20, 1907.
1897	LEE, HON. JAMES W.....	Pittsburgh,	" May 11, 1908.
1904	WARD, JOHN A.....	Philadelphia,	" July 18, 1908.
1899	MELICK, LEONI.....	"	" August 24, 1908.
1899	INNES, R. H.....	"	" September, 1908.
1901	STRAWBRIDGE, WILLIAM C.....	"	" September 20, 1908.
1901	REYNOLDS, ROSS.....	Kittanning,	" October 1, 1908.



Year of Admission			
1895	BUCHER, JOSEPH C.....	Lewisburg,	Died October 17, 1908.
1900	PETTIT, SILAS W.....	Philadelphia,	" November 11, 1908.
1895	McLOUGHLIN, EDWARD D.....	"	" February 1, 1909.
1902	JENKS, GEORGE A.....	Newton,	" April 2, 1909.
1902	KNITTEL, CHARLES .....	Philadelphia,	" April 21, 1909.
1895	CLARK, JOHN A.....	"	" May 5, 1909.
1908	CARTER, CHARLES GIBBS.....	Pittsburgh,	" May 14, 1909.
1895	LEASON, MIRVEN F.....	Kittanning,	" May, 1909.
1895	HART, GAVIN W.....	Philadelphia,	" June 12, 1909.
1908	RICKERT, J. EDWARD .....	"	" June 22, 1909.
1897	BAKEWELL, THOMAS W.....	Pittsburgh,	" July 7, 1909.
1896	WAITNEIGHT, HARRY P.....	Phoenixville,	" August 18, 1909.
1895	THOMPSON, HON. SAMUEL G...	Philadelphia.	" September 10, 1909.
1899	FOSTER, HON. CHARLES D....	Wilkes-Barre,	" September 28, 1909.
1895	LEISENRING, J. L.....	Altoona,	" January 23, 1910.
1897	WATTS, EDWARD B. ....	Carlisle,	" February 20, 1910.
1895	WILLARD, HON. E. N.....	Scranton,	" March 2, 1910.
1895	ROGERS, JOHN I.....	Philadelphia,	" March 13, 1910.
1895	MILLER, N. DuBOIS.....	"	" March 14, 1910.
1901	GOBIN, HON. J. P. S.....	Lebanon,	" May 1, 1910.
1900	EHRGOOD, HON. ALLEN W....	"	" May 20, 1910.
1902	KELLY, ROBERT B.....	Philadelphia,	" May 20, 1910.
1910	HALLAHAN, JOHN W., 3d....	"	" July 1, 1910.
1895	JOHNSON, WILLIAM F.....	"	" July 26, 1910.
1909	RODDY, GEORGE BLACK.....	New Bloomfield,	" September 5, 1910.
1903	McFADDEN, HARRY A.....	Hollidaysburg,	" September 15, 1910.
1895	WOLVERTON, S. P.....	Sunbury,	" October 25, 1910.

# **OFFICERS FOR THE YEAR 1910-1911**

## **PRESIDENT**

EDWIN W. SMITH, Allegheny.

## **VICE PRESIDENTS**

W. A. BLAKELEY, Allegheny.  
R. T. CORNWELL, Chester.  
ALLISON O. SMITH, Clearfield.  
ANDREW H. McCLINTOCK, Luzerne.  
A. MITCHELL PALMER, Monroe.

## **SECRETARY**

WILLIAM H. STAAKE, Philadelphia.  
(648 City Hall.)

## **TREASURER**

WILLIAM PENN LLOYD, Cumberland.  
(Mechanicsburg, Pa.)

## **EXECUTIVE COMMITTEE**

J. B. COLAHAN, JR., Philadelphia, *Chairman*.  
CHARLES D. GILLESPIE, Allegheny.  
SAMUEL McCLAY, Allegheny.  
CHRISTIAN H. RUHL, Berks.  
FRED. BERTOLETTE, Carbon.  
T. C. HIPPLE, Clinton.  
E. L. WHITTELSEY, Erie.  
ROBERT W. PLAYFORD, Fayette.  
JAMES E. SAYERS, Greene.  
CHARLES F. HAGER, Lancaster.  
J. NORMAN MARTIN, Lawrence.  
QUINCY A. GORDON, Mercer.  
N. H. LARZELERE, Montgomery.  
RUSSELL C. STEWART, Northampton.  
FRANCIS FISHER KANE, Philadelphia.  
R. STUART SMITH, Philadelphia.  
EDMUND E. KIERNAN, Somerset.  
ANDREW A. LEISER, Union.  
WILLIAM HARRISON ALLEN, Warren.  
JAMES I. BROWNSON, Washington.  
EDWARD E. ROBBINS, Westmoreland.

**STANDING COMMITTEES****COMMITTEE ON LAW REFORM**

ALEX. SIMPSON, JR., Philadelphia, *Chairman*.  
ROBERT RALSTON, Philadelphia.  
HENRY C. NILES, York.  
T. S. BROWN, Allegheny.  
RODNEY A. MERCUR, Bradford.  
NATHANIEL EWING, Fayette.  
C. LARUE MUNSON, Lycoming.  
W. RUSH GILLAN, Franklin.  
WILLIAM U. HENSEL, Lancaster.  
HENRY J. STEELE, Northampton.  
WILLIAM I. SCHAFFER, Delaware.

**COMMITTEE ON ADMISSIONS**

EDWARD J. FOX, Northampton, *Chairman*.  
JOHN W. WETZEL, Cumberland, *Secretary*.  
CHARLES P. ORR, Allegheny.  
WM. M. HAYES, Chester.  
A. B. HASSLER, Lancaster.  
WILLIAM W. SMITHERS, Philadelphia.  
RICHMOND L. JONES, Berks.  
HOMER GREENE, Wayne.  
CHARLES M. CLEMENT, Northumberland.

**COMMITTEE ON GRIEVANCES**

CYRUS G. DERR, Berks, *Chairman*.  
FRANK C. MCGIRR, Allegheny.  
W. M. HARGEST, Dauphin.  
A. C. HAGAN, Fayette.  
WILLIAM RIGHTER FISHER, Philadelphia.

**COMMITTEE ON UNIFORM STATE LAWS**

WALTER GEORGE SMITH, Philadelphia, *Chairman*.  
ISAAC HIESTER, Berks.  
WILLIAM D. CROCKER, Lycoming.

## COMMITTEES ON LEGAL EDUCATION AND LEGAL BIOGRAPHY

One from each Judicial District

- |   |  |
|---|--|
| 1st. Philadelphia,                        | Legal Education, GEO. WHARTON PEPPER.<br>Legal Biography, T. ELLIOTT PATTERSON,<br><i>Secretary.</i> |
| 2nd. Lancaster,                           | L. Ed. WM. H. KELLER, Lancaster, <i>Secretary.</i><br>L. Biog. G. ROSS ESHLEMAN, Lancaster.          |
| 3rd. Northampton,                         | L. Ed. RUSSELL C. STEWART, Easton.<br>L. Biog. HENRY D. MAXWELL, Easton.                             |
| 4th. Tioga,                               | L. Ed. H. F. MARSH, Wellsboro.<br>L. Biog. GEORGE W. MERRICK, Wellsboro.                             |
| 5th. Allegheny,                           | L. Ed. J. A. EVANS, Pittsburgh.<br>L. Biog. GEORGE J. CAMPBELL, Pittsburgh.                          |
| 6th. Erie,                                | L. Ed. JOHN S. RILLING, Erie.<br>L. Biog. EMORY A. WALLING, Erie.                                    |
| 7th. Bucks,                               | L. Ed. JOHN C. SWARTLEY, Doylestown.<br>L. Biog. MAHLON H. STOUT, Doylestown.                        |
| 8th. Northumberland,                      | L. Ed. HARRY S. KNIGHT, Sunbury.<br>L. Biog. WM. W. RYON, Shamokin.                                  |
| 9th. Cumberland,                          | L. Ed. J. W. WETZEL, Carlisle.<br>L. Biog. EDW. W. BIDDLE, Carlisle, <i>Chairman.</i>                |
| 10th. Westmoreland,                       | L. Ed. JAMES S. MOORHEAD, Greensburg.<br>L. Biog. PAUL H. GAITHER, Greensburg.                       |
| 11th. Luzerne,                            | L. Ed. J. B. WOODWARD, Wilkes-Barre.<br>L. Biog. GEORGE B. KULP, Wilkes-Barre.                       |
| 12th. Dauphin,                            | L. Ed. J. M. LAMBERTON, Harrisburg, <i>Chairman.</i><br>L. Biog. CASPER DULL, Harrisburg.            |
| 13th. Greene,                             | L. Ed. JAMES E. SAYERS, Waynesburg.<br>L. Biog. DANIEL S. WALTON, Waynesburg.                        |
| 14th. Fayette,                            | L. Ed. ROBT. E. UMBEL, Uniontown.<br>L. Biog. R. F. HOPWOOD, Uniontown.                              |
| 15th. Chester,                            | L. Ed. ARCHIE McC. HOLDING, West Chester.<br>L. Biog. H. H. GILKYSON, Phoenixville.                  |
| 16th. Somerset,                           | L. Ed. W. H. RUPPEL, Somerset.<br>L. Biog. J. L. PUGH, Somerset.                                     |
| 17th. Union and<br>Snyder,                | L. Ed. HORACE PELLMAN GLOVER, Mifflinburg.<br>L. Biog. PHILIP B. LINN, Lewisburg.                    |
| 18th. Clarion,                            | L. Ed. DON C. CORBETT, Clarion.<br>L. Biog. JAMES T. MAFFETT, Clarion.                               |
| 19th. York,                               | L. Ed. JOHN A. HOOBER, York.<br>L. Biog. GEO. S. SCHMIDT, York.                                      |
| 20th. Huntingdon, Bedford<br>and Mifflin, | L. Ed. CHAS. G. BROWN, Huntingdon.<br>L. Biog. JOHN H. JORDAN, Bedford.                              |

- 21st. *Schuylkill*, L. Ed. JOSEPH W. MOYER, Pottsville.  
L. Biog. A. W. SCHAICK, Pottsville.
- 22nd. *Wayne*, L. Ed. ALONZO T. SEARLE, Honesdale.  
L. Biog. HENRY WILSON, Honesdale.
- 23rd. *Berks*, L. Ed. WILLIAM KERPER STEVENS, Reading.  
L. Biog. LOUIS RICHARDS, Reading.
- 24th. *Blair*, L. Ed. THOS. J. BALDRIGE, Hollidaysburg.  
L. Biog. J. H. CRAIG, Altoona.
- 25th. *Clinton, Cameron and Elk*, L. Ed. FRED. H. ELY, Ridgway.  
L. Biog. WILSON C. KRESS, Lock Haven.
- 26th. *Columbia and Montour*, L. Ed. H. A. MCKILLIP, Bloomsburg.  
L. Biog. CHARLES CHALFANT, Danville.
- 27th. *Washington*, L. Ed. ALEX. M. TEMPLETON, Washington.  
L. Biog. J. A. WILEY, Washington.
- 28th. *Venango*, L. Ed. J. H. OSMER, Franklin.  
L. Biog. FREDERICK L. KAHLE, Franklin.
- 29th. *Lycoming*, L. Ed. SETH T. MCCORMICK, Williamsport.  
L. Biog. JAMES C. WATSON, Williamsport.
- 30th. *Crawford*, L. Ed. J. J. HENDERSON, Meadville.  
L. Biog. NED ARDEN FLOOD, Meadville.
- 31st. *Lehigh*, L. Ed. JAMES B. DESHER, Allentown.  
L. Biog. FRANK M. TREXLER, Allentown.
- 32nd. *Delaware*, L. Ed. E. H. HALL, Media.  
L. Biog. GEORGE E. DARLINGTON, Media.
- 33rd. *Armstrong*, L. Ed. WILLIS D. PATTON, Kittanning.  
L. Biog. ROSS REYNOLDS, Kittanning.
- 34th. *Susquehanna*, L. Ed. WM. D. B. AINEY, Montrose.  
L. Biog. A. B. SMITH, JR., Montrose.
- 35th. *Mercer*, L. Ed. ALFRED W. WILLIAMS, Sharon.  
L. Biog. E. S. TEMPLETON, Greenville.
- 36th. *Beaver*, L. Ed. W. S. MOORE, Beaver.  
L. Biog. D. H. STONE, Beaver.
- 37th. *Warren and Forest*, L. Ed. W. E. RICE, Warren.  
L. Biog. WATSON D. HINCKLEY, Warren.
- 38th. *Montgomery*, L. Ed. MONTGOMERY EVANS, Norristown.  
L. Biog. WILLIAM F. DANNEHOWER, Norristown.
- 39th. *Franklin*, L. Ed. D. WATSON ROWE, Chambersburg.  
L. Biog. WILLIAM ALEXANDER, Chambersburg.
- 40th. *Indiana*, L. Ed. J. N. BANKS, Indiana.  
L. Biog. HARRY WHITE, Indiana.
- 41st. *Juniata and Perry*, L. Ed. J. HOWARD NEELY, Mifflintown.  
L. Biog. F. M. M. PENNELL, Mifflintown.
- 42nd. *Bradford*, L. Ed. JOHN C. INGHAM, Towanda.  
L. Biog. WM. MAXWELL, Towanda.
- 43rd. *Monroe and Pike*, L. Ed. HENRY J. KOTZ, Stroudsburg.  
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RICHARD L. ASHHURST . . . . .	Philadelphia.	1896-1897.
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RICHARD C. DALE . . . . .	Philadelphia.	
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WILLIAM H. STAAKE . . . . .	Philadelphia.	1900-1901.
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ALFRED P. REID . . . . .	Chester.	
WILLIAM I. SCHAFFER . . . . .	Delaware.	1901-1902.
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EDWIN W. SMITH . . . . .	Allegheny.	
CHARLES E. RICE . . . . .	Luzerne.	
HENRY C. NILES . . . . .	York.	
JOHN STEWART . . . . .	Franklin.	1902-1903.
JOSEPH C. BUCHER . . . . .	Union.	
J. B. COLAHAN, JR. . . . .	Philadelphia.	
CHARLES P. ORR . . . . .	Allegheny.	
HENRY LEAR . . . . .	Bucks.	
GEORGE B. ORLADY . . . . .	Huntingdon.	1903-1904.
RICHARD C. DALE . . . . .	Philadelphia.	
JAMES R. MACFARLANE . . . . .	Allegheny.	
HENRY J. STEELE . . . . .	Northampton.	
GEORGE A. ALLEN . . . . .	Erie.	
M. HAMPTON TODD . . . . .	Philadelphia.	1904-1905.
GEORGE B. GORDON . . . . .	Allegheny.	
ROBERT E. UMBEL . . . . .	Fayette.	
HENRY K. WEAND . . . . .	Montgomery.	
J. W. BOUTON . . . . .	McKean.	
ROBERT S. FRAZER . . . . .	Allegheny.	1905-1906.
CYRUS E. WOODS . . . . .	Westmoreland.	
CHARLES W. STONE . . . . .	Warren.	
MAHLON H. STOUT . . . . .	Bucks.	
RUSSELL C. STEWART . . . . .	Northampton.	
SAMUEL W. PENNYPACKER . . . . .	Montgomery.	1906-1907.
FRANCIS J. O'CONNOR . . . . .	Cambria.	
FRANK M. TREXLER . . . . .	Lehigh.	
C. H. MCCAULEY . . . . .	Elk.	
BOYD CRUMRINE . . . . .	Allegheny.	
FRANK C. MCGIRR . . . . .	Allegheny.	1907-1908.
MAHLON H. STOUT . . . . .	Bucks.	
FRANCIS J. KOOSER . . . . .	Somerset.	
T. C. HIPPLE . . . . .	Clinton.	
JOHN A. CLARK . . . . .	Philadelphia.	

NAME	COUNTY	YEAR
ROBERT S. MURPHY . . . . .	Cambria.	1908-1909.
HARRY WHITE . . . . .	Indiana.	
CHARLES B. STAPLES . . . . .	Monroe.	
CHARLES P. ORR . . . . .	Allegheny.	
W. SCOTT ALEXANDER . . . . .	Fulton.	
WILLIAM S. DALZELL . . . . .	Allegheny.	1909-1910.
D. WATSON ROWE . . . . .	Franklin.	
RUSSELL C. STEWART . . . . .	Northampton.	
CHARLES M. CLEMENT . . . . .	Northumberland.	
JOHN I. ROGERS . . . . .	Philadelphia.	

### LIST OF SECRETARIES

NAME	
EDWARD P. ALLINSON, Philadelphia.	Elected on organization of Association, January 16, 1895, and served continuously until his death, January 16, 1901.
WILLIAM H. STAAKE, Philadelphia.	Since January, 1901.

### LIST OF TREASURERS

NAME	
WILLIAM PENN LLOYD, Cumberland.	Since organization of the Association, January 16, 1895.

### DATES AND PLACES OF ANNUAL MEETINGS

1895	January 16.....	Preliminary Convention,	Harrisburg.
1895	July 10, 11.....	First Annual Meeting,	Bedford Springs.
1896	July 8, 9.....	Second	" " " "
1897	June 30, July 1.....	Third	" " Cresson.
1898	July 7, 8.....	Fourth	" " Delaware Water Gap.
1899	July 6, 7.....	Fifth	" " Wilkes-Barre.
1900	June 26, 27, 28.....	Sixth	" " Cambridge Springs.
1901	June 25, 26, 27.....	Seventh	" " Bedford Springs.
1902	June 30, July 1, 2....	Eighth	" " Cambridge Springs.
1903	June 29, 30, July 1...	Ninth	" " " "
1904	June 28, 29, 30.....	Tenth	" " Cape May, N. J.
1905	June 27, 28, 29.....	Eleventh	" " Bedford Springs.
1906	June 26, 27, 28.....	Twelfth	" " " "
1907	June 25, 26, 27.....	Thirteenth	" " " "
1908	June 23, 24, 25.....	Fourteenth	" " Cape May, N. J.
1909	June 29, 30, July 1...	Fifteenth	" " Bedford Springs.
1910	June 28, 29, 30.....	Sixteenth	" " Cape May, N. J.

## PRESIDENTS' ADDRESSES

YEAR	NAME	SUBJECT
1895 . . .	JOHN W. SIMONTON . . . . .	"Pennsylvania Jurisprudence."
1896 . . .	SAMUEL DICKSON . . . . .	{ "The Development in Pennsylvania of Constitutional Restraints upon the Power and Procedure of the Legislature."
1897 . . .	P. C. KNOX . . . . .	
1898 . . .	WILLIAM U. HENSEL . . . . .	{ "The Law of Labor and Trade." "The Legislature of 1897, as an Illustration of the Decadence of the Legislative Branch of our State Government."
1899 . . .	STANLEY WOODWARD . . . . .	
1900 . . .	LYMAN D. GILBERT . . . . .	{ "The Wyoming Valley." "Some Changes in the Law and Their Effect on Lawyers."
1901 . . .	WILLIAM SCOTT . . . . .	
1902 . . .	ALEX. SIMPSON, JR. . . . .	{ "Legislature of 1901." "Charitable Appropriations and Special Legislation."
1903 . . .	C. LARUE MUNSON. . . . .	
1904 . . .	NATHANIEL EWING . . . . .	{ "The Brotherhood of Bench and Bar." "The Ethics of the Legal Profession."
1905 . . .	HENRY C. NILES . . . . .	
1906 . . .	J. B. COLAHAN, JR. . . . .	{ "Statutory Changes in the State of Public Interest." "Statutory Changes in the State of Public Interest."
1907 . . .	THOMAS PATTERSON . . . . .	
1908 . . .	ROBERT SNODGRASS . . . . .	{ "Statutory Changes in the State of Public Interest." "Legislative Assistance," or, "Some Aspects of Reform in Legislation."
1909 . . .	M. HAMPTON TODD . . . . .	
1910 . . .	GUSTAV A. ENDLICH . . . . .	{ "The Constitutional Amendments of 1909, with Some Remarks on Current Legislation." "The Constitutional Amendments of 1909, with Some Remarks on Current Legislation."

## ANNUAL ADDRESSES

YEAR	NAME	SUBJECT
1895 . . .	J. NEWTON FIERO . . . . .	{ "The Work of the Bar Association."
1896 . . .	CORTLANDT PARKER . . . . .	"Sir Matthew Hale."
1897 . . .	HILARY A. HERBERT . . . . .	{ "The Supreme Court of the United States and its Functions."
1898 . . .	JOHN V. L. FINDLAY . . . . .	{ "Some of the International Aspects of the Cuban Question."
1899 . . .	WILLIAM B. HORNBLLOWER . . . . .	{ "Some Legal Problems of the Twentieth Century."
1900 . . .	JOHN K. RICHARDS . . . . .	{ "The Constitution and the New Territories."
1901 . . .	U. M. ROSE . . . . .	{ "The Rise of Constitutional Law."
1902 . . .	WILLIAM WIRT HOWE . . . . .	{ "Jus Gentium and Law Merchant."
1903 . . .	JAMES B. DILL . . . . .	{ "Some Aspects of New Jersey's Corporate Policy."
1904 . . .	HENRY E. DAVIS . . . . .	{ "The Law Spirit; Its Source and Its Sway."
1905 . . .	CHARLES A. GARDINER . . . . .	{ "The Constitutional Powers and Discretion of the President."
1906 . . .	WILLIAM H. TAFT . . . . .	{ "The Legislature and the Execution of the Laws."
1907 . . .	HON. GEORGE GRAY . . . . .	"The New Federalism."
1908 . . .	HON. HANNIS TAYLOR . . . . .	{ "Pelatiah Webster, the Architect of the Constitution."
1909 . . .	HON. AMASA M. EATON . . . . .	{ "Thomas W. Dorr and The Dorr War in Rhode Island."
1910 . . .	HON. JAMES PENNEWILL . . . . .	"The Layman and the Law."

## PAPERS READ

YEAR	NAME	SUBJECT
1895 . . .	ALEX. SIMPSON, JR. . . . .	"The Local Bar Association."
1895 . . .	GEORGE W. PEPPER . . . . .	"Legal Education."
1896 . . .	WM. B. RODGERS . . . . .	"The Libel Law."
1897 . . .	JOHN B. MCPHERSON . . . . .	{ "The Jurisdiction of the Supreme and Superior Courts of Pennsylvania."
1897 . . .	THOMAS PATTERSON . . . . .	
1898 . . .	GUSTAV A. ENDLICH . . . . .	{ "The Jurisdiction of the Justice of the Peace and the Possible Application of the Small Debtors' Court on the English Plan."
1898 . . .	WILLIAM DRAPER LEWIS . . . . .	
1899 . . .	JAMES T. MITCHELL . . . . .	{ "Proposed Changes in the Law of Expert Testimony."
1900 . . .	TALCOTT WILLIAMS . . . . .	
1900 . . .	RICHARD C. DALE . . . . .	{ "The Study of the Common Law."
1901 . . .	RICHARD L. ASHHURST . . . . .	
1901 . . .	S. W. DANA . . . . .	{ "Fidelity to the Court and Client in Criminal Cases."
1902 . . .	RICHMOND L. JONES . . . . .	
1902 . . .	SAMUEL W. COOPER . . . . .	{ "The Jury System from the Jury Panel."
1902 . . .	JOHN I. ROGERS . . . . .	
1902 . . .	HENRY J. STEELE . . . . .	{ "The Obligation of the Legislature as well as of the Judiciary in giving Effect to Constitutional Limitations."
		{ "The Abolition of Actions for Breach of Promise of Marriage and Alienation of Affections."
		{ "Business Corporations in Pennsylvania."
		{ "The Right of the Municipality to Abate a Nuisance on the Streets Without the Preliminary Action of the Courts."

YEAR	NAME	SUBJECT
1903 . . .	THOMAS RAEBURN WHITE . . .	{ "Judicial Oaths and Their Effect Upon the Competency of Witnesses."
1903 . . .	CHARLES WETHERILL . . . . .	{ "On the Judicial Recording of Titles."
1903 . . .	PAUL H. GAITHER . . . . .	{ "The Recent Amendments to the Bankruptcy Act of 1898."
1903 . . .	GEORGE W. CARR . . . . .	{ "Jeremiah S. Black and His Influence upon the Laws of Pennsylvania."
1903 . . .	HENRY C. NILES . . . . .	{ "The Constitution between Friends."
1903 . . .	HENRY A. FULLER . . . . .	{ "The Responsive Answer in Equity Considered as Evidence for the Defendant."
1904 . . .	JOHN MARSHALL GEST . . . . .	{ "The Lawyer."
1904 . . .	N. M. EDWARDS . . . . .	{ "Municipal Autonomy and Code Regulations."
1904 . . .	LOUIS RICHARDS . . . . .	{ "The Pennsylvania Bar and Its Influence."
1904 . . .	J. LEVERING JONES . . . . .	{ "Labor and the Law."
1904 . . .	JAMES H. TORREY . . . . .	{ "Some Remarks Upon Charging the Jury in a Trial for Murder."
1905 . . .	ROBERT RALSTON . . . . .	{ "Justice Without Delay."
1905 . . .	IRA JEWELL WILLIAMS . . . . .	{ "James Buchanan."
1905 . . .	W. RUSH GILLAN . . . . .	{ "Thaddeus Stevens as a Country Lawyer."
1906 . . .	WILLIAM U. HENSEL . . . . .	{ "A Philadelphia Lawyer in the London Courts."
1906 . . .	THOMAS LEAMING . . . . .	{ "Legislation in Pennsylvania."
1906 . . .	CYRUS E. WOODS . . . . .	{ "Some Questions of Legal Ethics Suggested by the Life and Career of Lord Chancellor Bacon, Viscount St. Albans."
1906 . . .	RICHARD L. ASHHURST . . . . .	{ "Some Questions of Administrative Law."
1906 . . .	HAMPTON L. CARSON . . . . .	{ "Coke Upon Littleton—A Wise Course of Study."
1906 . . .	CLEMENT B. PENROSE . . . . .	{ "The Legal Aspects of the Trial of Jesus Christ."
1907 . . .	EDWARD J. FOX . . . . .	{ "The Guaranties of Liberty in the Early Law of Pennsylvania."
1907 . . .	MICHAEL WILLIAM JACOBS . . . . .	{ "The Guaranties of Liberty in the Early Law of Pennsylvania."



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1907 . . .	JOHN D. SHAFER . . . . .	{ "The History of the Law as Part of the Course of Study Required for Admission to the Bar."
1907 . . .	WALTER GEORGE SMITH . . . .	{ "Uniform Divorce Laws."
1908 . . .	A. LEO. WEIL . . . . .	{ "Modern Municipal Conditions and the Lawyers' Responsibility."
1908 . . .	HARMAN YERKES . . . . .	{ "Some Observations of the Practice of the French Code."
1908 . . .	CHARLES L. MCKEEHAN . . . .	{ "Testing Legislative Rate Regulations under the Fourteenth Amendment."
1909 . . .	JOHN W. APPEL . . . . .	{ "Gibson and a Progressive Jurisprudence."
1909 . . .	WILLIAM W. SMITHERS . . . .	{ "Comparative Law as a Practical Science."
1909 . . .	A. J. W. HUTTON . . . . .	{ "A Judicial Solecism."
1909 . . .	OWEN J. ROBERTS . . . . .	{ "Full Paid and Non-Assessable."
1910 . . .	HAMPTON L. CARSON . . . . .	{ "The Genesis of Blackstone's Commentaries and Their Place in Legal Literature."
1910 . . .	H. FRANK ESHLEMAN . . . . .	{ "The Constructive Genius of David Lloyd in Early Colonial Pennsylvania Legislation and Jurisprudence, 1686 to 1731."

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BUCKS COUNTY BAR ASSOCIATION.	Hon. Harman Yerkes, Doylestown.	Henry A. James, Doylestown.
BUTLER COUNTY BAR ASSOCIATION.	J. D. McJunkin, Butler.	J. D. Marshall, Butler.
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CARBON COUNTY BAR ASSOCIATION.	Hon. E. M. Mulhearn, Mauch Chunk.	Frank P. Sharkey, Mauch Chunk.
CENTRE COUNTY BAR ASSOCIATION.	Hon. Ellis L. Orvis, Bellefonte.	A. B. Kimport, Bellefonte.
*CHESTER COUNTY LAW AND MISCELLANEOUS LIBRARY ASSOCIATION.	William M. Hayes, West Chester.	Thomas Lack, West Chester.
CLARION BAR ASSOCIATION.	David Lawson, Clarion.	W. D. Burns, Clarion.
CLEARFIELD COUNTY LAW ASSOCIATION.	Hon. Allison O. Smith, Clearfield.	Alfred Liveright, Clearfield.
CLEARFIELD LAW LIBRARY ASSOCIATION.	Hon. Allison O. Smith, Clearfield.	Alfred Liveright, Clearfield.
CLINTON COUNTY BAR ASSOCIATION.	C. S. McCormick, Lock Haven.	E. P. Geary, Lock Haven.
*COLUMBIA COUNTY BAR ASSOCIATION.	John G. Freeze, Bloomsburg.	George E. Elwell, Bloomsburg.
CRAWFORD COUNTY BAR ASSOCIATION.	B. B. Pickett, Jr., Meadville.	E. Lowry Humes, Meadville.
CUMBERLAND COUNTY BAR ASSOCIATION.	James Eckels, Carlisle.	Jasper Alexander, Carlisle.

NAME	PRESIDENT	SECRETARY
DAUPHIN COUNTY BAR ASSOCIATION.	Daniel S. Seitz, Harrisburg.	Scott S. Leiby, Harrisburg.
DELAWARE COUNTY BAR ASSOCIATION.	George E. Darlington, Media.	J. C. Taylor, Chester.
ELK COUNTY BAR ASSOCIATION.	Hon. Harry Alvan Hall, Ridgway.	Fred W. McFarlin, Ridgway.
ERIE COUNTY BAR ASSOCIATION.	Henry E. Fish, Erie.	William B. Walling, Erie.
FAYETTE COUNTY BAR ASSOCIATION.	R. W. Dawson, Uniontown.	C. A. Rhoads, Uniontown.
FOREST BAR ASSOCIATION.	S. D. Irwin, Tionesta.	T. F. Ritchey, Tionesta.
FRANKLIN COUNTY BAR ASSOCIATION.	O. C. Bowers, Chambersburg.	Loren A. Culp, Chambersburg.
FULTON COUNTY BAR ASSOCIATION.	J. Nelson Sipes, McConnellsburg.	W. Scott Alexander, McConnellsburg.
HUNTINGDON COUNTY BAR ASSOCIATION.	J. R. Simpson, Huntingdon.	James S. Woods, Huntingdon.
INDIANA COUNTY LAW ASSOCIATION.	J. N. Banks, Indiana.	Elder Peelor, Indiana.
*JEFFERSON COUNTY BAR ASSOCIATION.	E. A. Carmalt, Brookville.	John M. White, Brookville.
JUNIATA COUNTY BAR ASSOCIATION.	Robert McMeen, Mifflintown.	F. M. M. Pennell, Mifflintown.
LACKAWANNA LAW AND LIBRARY ASSOCIATION.	Samuel B. Price, Scranton.	James E. Davis, Scranton.
LANCASTER BAR ASSOCIATION.	W. U. Hensel, Lancaster.	John W. Appel, Lancaster.
LAWRENCE COUNTY BAR ASSOCIATION.	Wylie McCaslin, New Castle.	Robert L. Wallace, New Castle.
LEBANON COUNTY BAR ASSOCIATION.	Charles M. Zerbe, Lebanon.	Edward W. Miller, Lebanon.
BAR ASSOCIATION OF LEHIGH COUNTY.	Hon. Edward Harvey, Allentown.	Francis G. Lewis, Allentown.
LYCOMING LAW ASSOCIATION.	Clarence E. Sprout, Williamsport.	John E. Cupp, Williamsport.
McKEAN COUNTY BAR ASSOCIATION.	E. L. Keenan, Smethport.	Guy B. Mayo, Smethport.
MERCER COUNTY BAR ASSOCIATION.	B. Magoffin, Mercer.	Virgil L. Johnson, Mercer.
MIFFLIN COUNTY BAR ASSOCIATION.	T. M. Uttley, Lewistown.	Michael M. McLaughlin, Lewistown.
MONTGOMERY COUNTY BAR ASSOCIATION.	Hon. H. K. Weand, Norristown.	Wm. F. Dannehower, Norristown.
NORTHAMPTON COUNTY BAR ASSOCIATION.	Hon. Robert E. James, Easton.	David Bachman, Easton.

NAME	PRESIDENT	SECRETARY
NORTHUMBERLAND COUNTY LAW ASSOCIATION.	W. H. M. Oram, Shamokin.	Harry S. Knight, Sunbury.
PERRY COUNTY BAR ASSO- CIATION.	W. N. Seibert, New Bloomfield.	Walter W. Rice, New Bloomfield.
LAW ASSOCIATION OF PHILADELPHIA.	Alex. Simpson, Jr., <i>Chancellor</i> , Philadelphia.	Louis B. Runk, Philadelphia.
LAWYERS' CLUB OF PHILA- DELPHIA.	Francis Shunk Brown, Philadelphia.	Henry C. Thompson, Jr. Philadelphia.
POTTER COUNTY BAR AS- SOCIATION.	Hon. John Ormerod, Coudersport.	A. N. Crandall, Coudersport.
LAW ASSOCIATION OF SCHUYLKILL COUNTY.	Guy E. Farquhar, Pottsville.	Wesley K. Woodbury, Pottsville.
SNYDER COUNTY BAR AS- SOCIATION.	A. W. Potter, Selin's Grove.	Jay G. Weiser, Middleburg.
SOMERSET COUNTY BAR AS- SOCIATION.	H. L. Baer, Somerset.	A. C. Holbert, Somerset.
SULLIVAN COUNTY BAR AS- SOCIATION.	J. G. Scouten, Dushore.	Wm. P. Shoemaker, La Porte.
SUSQUEHANNA COUNTY LEGAL ASSOCIATION.	William M. Post, Montrose.	H. A. Denney, Montrose.
TIOGA COUNTY BAR ASSO- CIATION.	S. F. Channell, Wellsboro.	Alfred J. Shattuck, Wellsboro.
UNION COUNTY BAR ASSO- CIATION.	Hon. Alfred Hayes, Lewisburg.	Cloyd Steininger, Lewisburg.
VENANGO COUNTY BAR AS- SOCIATION.	James S. Carmichael, Franklin.	John L. Nesbit, Franklin.
WARREN COUNTY BAR AS- SOCIATION.	Hon. C. W. Stone, Warren.	William S. Clark, Warren.
WASHINGTON BAR ASSO- CIATION.	Robert W. Knox, Washington.	Edgar B. Murdoch, Washington.
WAYNE BAR ASSOCIATION.	Henry Wilson, Honesdale.	R. M. Stocker, Honesdale.
WAYNESBURG BAR ASSO- CIATION.	Hon. J. B. Donley, Waynesburg.	James J. Purman, Waynesburg.
WESTMORELAND LAW AS- SOCIATION.		Ralph D. Hurst, Greensburg.
WILKES-BARRE LAW AND LIBRARY ASSOCIATION.	Alexander Farnham, Wilkes-Barre.	Joseph D. Coons, Wilkes-Barre.
WYOMING COUNTY BAR ASSOCIATION.	James W. Piatt, Tunkhannock.	H. Stanley Harding, Tunkhannock.
YORK COUNTY BAR AS- SOCIATION.	Joseph R. Strawbridge, York.	George Hay Kain, York.

NOTE.—Where no replies have been received up to the time of going to print, the officers for 1909 are given and indicated by a star

## BY-LAWS

of the

### Pennsylvania Bar Association

As Amended at the Annual Meetings of 1896, 1897, 1904 and 1910

#### I.—*Objects.*

SEC. 1. This Association is formed to advance the science of jurisprudence; to promote the administration of justice; to secure proper legislation; to encourage a thorough legal education; to uphold the honor and dignity of the Bar; to cultivate cordial intercourse among the lawyers of Pennsylvania; and to perpetuate the history of the profession and the memory of its members.

SEC. 2. It shall not take any partisan political action, nor endorse or recommend any person for any official position.

#### II.—*Members.*

SEC. 3. Those members of the Bar who signed the call for the convention at which this Association was formed, or who attended any meeting thereof, or who shall before the adjournment of the meeting held at Bedford Springs, July 10-11, 1895, pay the admission fee, and sign, or cause to be signed for them, a roll containing the charter and by-laws, are hereby declared to be active members of this Association.

SEC. 4. Any member of the Bar of the Supreme Court or Superior Court of Pennsylvania, residing or practicing in this State; any State or Federal Judge residing in this State; and any professor in a regularly organized law school in this State; who shall comply with the requirements hereinafter set forth, may become an active member upon approval by a majority of the Committee on Admissions.

SEC. 5. All applications for membership must be in writing, signed by the applicant, stating, *inter alia*, his name, age, residence and date of admission to practice in the Supreme Court or Superior Court, commission to the Bench, or appointment as professor in a regularly organized law school in the State; and endorsed by three or more members of the Association, and must be accompanied by the usual admission fee.

SEC. 6. (*Abolished.*)

SEC. 7. A list of applications admitted by the Committee on Admissions during the interim of the meetings of the Association, shall be reported at each annual meeting.

SEC. 8. Rejected applicants shall not be again proposed within one year after their rejection.

SEC. 9. Distinguished non-resident lawyers may be elected honorary members by a vote of the Association, and shall have a voice, but no vote, at meetings of the Association.

### III.—*Officers.*

SEC. 10. The officers shall be a President, a first, second, third, fourth and fifth Vice-Presidents, a Secretary and a Treasurer. The offices of Secretary and Treasurer may be held by one person.

SEC. 11. The President shall preside at all meetings of the Association, and shall deliver at the annual meeting an appropriate address, with particular reference to any statutory changes in the State of public interest, and any needed changes suggested by judicial decisions during the year.

SEC. 12. The Vice-Presidents, according to number, shall act, when required, in the place of the President.

SEC. 13. The Secretary shall keep a record of the proceedings of the Association, and of such other matters as may be directed to be placed on the files of the Association; he shall keep an accurate roll of the officers and members, and notify them of their election or appointment on committees; he shall issue notices of all meetings; furnish the Treasurer with the names and addresses of persons elected members; conduct the correspondence of the Association; and keep its seal. He shall report to the Executive Committee, prior to the annual meeting, a summary of his transactions during the year; and shall perform such other duties as may be required of him by the Association, the President, or the Executive Committee. His books and papers shall at all times be open to the inspection of the Executive Committee, and he shall receive such compensation as shall be allowed by that committee.

SEC. 14. The Treasurer shall keep an accurate roll of the active members of the Association; notify members of their election to membership; collect, keep careful and regular book accounts of, and expend, under direction of the Association or the Executive Committee, all moneys of the Association; and shall exhibit at the annual meeting, and when directed by the Association or the Executive Committee, detailed statements of the moneys received and expended, the amounts due to and by the Association, and an estimate of the resources and expenditures for the ensuing year. His books and accounts shall at all times be subject to examination and audit by the Executive Committee, or by any special committee appointed for that purpose. He shall give bond in such sum as shall be required by the Executive Committee, and shall receive such compensation as that committee shall allow.

SEC. 15. Vacancies in the offices of the Association shall be filled by the Executive Committee, but no appointment



shall be made to the office of President while any Vice-President is able and willing to serve.

#### IV.—*Elections.*

SEC. 16. The officers of the Association shall be elected at the annual meeting to serve for one year and until their successors are chosen.

SEC. 17. No member shall be elected President for two successive terms.

SEC. 18. Two persons residing in the same county shall not serve as Vice-Presidents at the same time; but, as far as practicable, they shall severally be chosen from different sections of the State. If two from the same county are elected at one time, the one having the lowest vote shall be rejected, and a new vote taken to fill the office.

#### V.—*Meetings.*

SEC. 19. The annual meeting shall be held at such time and place as the Association shall determine at the preceding annual meeting. And in default of such selection, or in the event of the time and place fixed by the Association becoming impracticable, the Executive Committee shall make the selection.

SEC. 20. Adjourned meetings shall be held at such time and place as the Association shall determine.

SEC. 21. Special meetings shall be called by the Secretary, when requested in writing by the President, the Executive Committee, or fifty members of the Association. Such request shall specify the purpose of the meeting. At special meetings no business shall be transacted except that stated in the call, unless by consent of four-fifths of the members present and voting.

SEC. 22. At all meetings fifty members shall constitute a quorum for the transaction of business.

SEC. 23. At least one month's notice shall be given of the annual meeting, and ten days' notice of adjourned or special meetings, by letter mailed to the last known address of each member.

SEC. 24. The Executive Committee shall arrange for the reading of appropriate papers at the annual meeting, and for the discussion thereof. So far as practicable, notice thereof shall be given to the members in the call for the meeting.

SEC. 25. At all meetings of the Association the order of business shall be as arranged by the Executive Committee, subject, however, to such changes as the Association may make therein.

SEC. 26. Except as herein otherwise provided, the meetings shall be conducted according to the usual parliamentary rules; but, without leave of the Association, no member shall be permitted to speak more than ten minutes at any one time, or more than twice on the same subject.

SEC. 27. Except by leave of the Association no one not a member shall be allowed on the floor while the meetings are in progress.

SEC. 28. No complimentary resolution shall be entertained relative to the reading of any paper by, or to the performance of any act or duty by, any officer or member of the Association.

SEC. 29. A stenographer shall be selected by the Executive Committee to report the proceedings of each meeting; and those proceedings, together with any papers read at the meeting, shall be printed, and a copy thereof sent to each member. Copies shall also be sent to every Law Library

in the State, to every other State Bar Association extending a like courtesy to this Association, and to every National Bar Association.

#### VI.—Committees.

SEC. 30. The Standing Committees shall be an Executive Committee, a Committee on Admissions, a Committee on Grievances, a Committee on Law Reform, a Committee on Uniform State Laws, a Committee on Legal Education, and a Committee on Legal Biography.

SEC. 31. The Executive Committee shall consist of twenty-one members, who shall be elected by the Association, and who shall act as Trustees, exclusive of the President, Secretary and Treasurer, who shall be *ex-officio* members. They shall have general management of the affairs of the Association, make arrangements for meetings, including, as far as may be, the obtaining of reasonable accommodations at, and of reasonable transportation to and from, the place of meeting; shall order the disbursement of the funds of the Association; audit the accounts, and have such other powers as may be conferred on them by these by-laws or by a vote of the Association.

SEC. 32. The Committee on Admissions shall consist of nine members, chosen from different sections of the State. All applications for membership shall be referred to this committee. They shall report to the Association the names of such persons as they deem suitable for membership, and shall seek to bring in all the lawyers of the State fitted to become members. What occurs at the meetings of this committee shall be considered confidential, except such matters as shall be publicly reported to the Association. Any ten members may appeal, in writing, to the Association from the failure or refusal of this committee to report favorably any application for membership.

SEC. 33. The Committee on Grievances shall consist of five members. They shall hear all complaints preferred by one member against another for misconduct in his relations to the profession or to this Association, provided the same be in writing, particularly stating the matters complained of, and signed by the complainant. They may also hear any specific complaints made by any member affecting the interest of the profession, the practice of law or the administration of justice; and may report thereon to the Association, with such recommendations as they deem advisable. No report shall be made adversely to any member until after notice to him, with full opportunity to defend and to meet his accusers and witnesses face to face. The adverse action of this committee must be approved by a vote of not less than two-thirds of the members present and voting. What occurs at the meetings of this committee shall be considered confidential except such matters as shall be publicly reported to the Association.

SEC. 34. The Committee on Law Reform shall consist of eleven members, chosen from different sections of the State. They shall consider and report to the Association such amendments of the law as they shall deem beneficial, oppose such as they shall deem injurious, observe the practical working of the judicial system of the State, and recommend from time to time such action as they shall deem best.

SEC. 35. The Committee on Uniform State Laws shall consist of three members, and shall examine and report annually on such measures of uniform State legislation as may be recommended by the State Board of Commissioners for promoting uniformity of legislation in the United States, and such other matters relating thereto as may be referred to them.

SEC. 36. The Committee on Legal Education shall consist of one member from each judicial district of the State.

They shall report from time to time such changes as they shall deem it is expedient to make in the system of legal education and of admission to the practice of law in the State.

SEC. 37. The Committee on Legal Biography shall consist of one member from each judicial district of the State. They shall provide for the preservation, among the records of the Association, of such facts relating to the history of the profession as may be of interest, and of suitable memorials of the lives and characters of deceased members of the Association.

SEC. 38. Unless otherwise provided for hereby, or by the Association, all committees and vacancies therein shall be filled by appointment of the President. Special committees shall serve until they have been discharged by a vote of the Association. Standing committees shall serve until the expiration of the next annual meeting, and the appointment of their successors. All committees may by a majority vote of the whole committee substitute some other chairman than the one appointed, may elect such other officers as they deem necessary, make rules for their government, and keep minutes of their proceedings, and shall make annual reports to the Association. They may provide that matters requiring attention between meetings may be voted on by letter, and that a failure of any member to attend three successive meetings shall cause his membership in the committee to become vacant. The rules adopted by one standing committee shall govern the succeeding committees until altered thereby.

SEC. 39. Such other committees may be appointed or elected from time to time as shall be deemed expedient; but except by a vote of the Association, no matter shall be referred to a special committee which is within the province, of any of the Standing Committees.

SEC. 40. In committees of nine or more, five shall constitute a quorum for the transaction of business; and in committees of less than nine, a majority shall constitute a quorum. In case of necessity, the annual report of the Standing Committees may be prepared and adopted by less than a quorum.

#### VII.—*Dues.*

SEC. 41. The current year of the Association shall commence on the first day of July, and the annual dues shall be payable on that date. Active members shall pay five dollars per year. The admission fee of five dollars shall include the first year's dues. Honorary members shall pay no admission fee or dues.

SEC. 42. The Treasurer shall, after diligently seeking to collect the same, and with notice to the member of this by-law, report to the Executive Committee the names of all members who are one year in arrears for their dues, and that committee may, by rule or direct vote on that report, declare that, by reason thereof, such persons have ceased to be members of the Association.

#### VIII.—*Penalties.*

SEC. 43. Any member may be suspended or expelled for misconduct in matters connected with the Association, or in his personal or professional relations, after conviction thereof by the Committee on Grievances and the approval of such conviction by this Association.

SEC. 44. Conviction of any member for crime shall at once work a forfeiture of membership in the Association, which forfeiture shall continue until such conviction be set aside or reversed; but if it shall afterwards be made to appear that such member was wrongfully convicted, he may

be re-elected to membership upon recommendation of the Committee on Admissions.

SEC. 45. If any member is disbarred from practice in the Supreme Court, or from the courts of the county in which he resides, such disbarment shall work a forfeiture of his membership, until the disbarment be set aside or reversed. Reinstatement to practice shall not reinstate to membership, unless by a vote of the Association upon recommendation of the Committee on Admissions.

SEC. 46. A member's interest in the property of the Association shall cease with his membership.

#### IX.—*Amendments.*

SEC. 47. Amendments may be made to these by-laws only at an annual meeting, and by a vote of two-thirds of the members present; and no amendment shall be considered (except by unanimous consent of those present) unless a copy of the same shall have been sent to the Secretary, and notice of the intention to offer the same shall have been included in the call for the annual meeting.

#### RESOLUTION

Adopted at the Thirteenth Annual Meeting of the Pennsylvania Bar Association at Bedford Springs, June 25, 1907:

*Resolved*, That it be adopted as a standing rule that at all meetings and banquets of the Pennsylvania Bar Association the National and State flags shall be displayed, and the Executive Committee shall see that this rule is carried out.

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